
LR I SCOPE AND PURPOSE (See Fed. R. Civ. P. I)

LR I.1 Scope and Application

These local rules govern practice and procedure in the United States District Court for the District of Oregon in all civil actions -- whether arising at law, in equity, or in admiralty -- except as stated in Fed. R. Civ. P. 81.

LR I.2 Effective Date

These local rules became effective on June 1, 1998. Over time, individual rules have been modified, and an explanation of any changes is included in the amendment history following each rule.

LR I.3 Citation Format

The local civil rules will be cited as "LR ____ . ____."

LR I.4 Authority to Modify or Suspend the Local Rules

In the interest of justice, a judge may suspend or modify the application of these rules in an individual case or group of cases.

LR I.5 Definitions

Unless the context requires otherwise, the following definitions apply to all proceedings within the District of Oregon:

- (a) **Clerk:** The term applies to the Clerk of the District Court and to any authorized deputy clerk.
- (b) **CM/ECF:** This is the acronym for the federal judiciary's case management and electronic case filing system (See LR 100 and the Court's website at ord.uscourts.gov/ECF/CMECFHomePage.htm).
- (c) **Conventionally Filed or Filed Conventionally:** The term means a pleading or document submitted for filing in paper form.
- (d) **Counsel:** The term includes counsel of record for any represented party, any unrepresented or *pro se* party, and any law student appearing pursuant to LR 83.5.
- (e) **Court:** The term refers to the United States District Court for the District of Oregon and not to any particular judicial officer.
- (f) **Electronic Filing:** The term means any pleading, document, exhibit, memorandum or other material authorized to be filed via the Internet using the CM/ECF system (See LR 100).
- (g) **Electronic Service:** The term means service of any electronic filing over the Internet using the CM/ECF system (See LR 100.2 and LR 100.7).

- (h) **Judge or Judicial Officer:** The term applies to any United States circuit, district, or magistrate judge exercising jurisdiction over a particular case or proceeding.
- (l) **Notice of Electronic Filing:** (See LR 100.7(a)(2)). The term refers to the document reflecting completion of the CM/ECF transaction and identifying who was notified.
- (j) **Party:** The term includes counsel of record for the represented party.
- (k) **PDF Text Searchable Format:** (See Practice Tip at LR 100.4).
- (l) **Registered User:** Attorneys admitted to practice in this Court pursuant to LR 83.1 and registered with the CM/ECF system pursuant to LR 83.1(e).

Amendment History to LR 1	
June 1, 2002	
LR 1.2	The words "Over time...." added.
LR 1.5(a)	Delete definition of Alternate Dispute Resolution. (See LR 16.4 for expanded information on ADR programs).
LR 1.5	Sections (c), (f), (g), (h), (l), (l), and (m) are new definitions. Sections (c), (g), (h), (l) and (l) are necessary in order to implement the Court's electronic filing system – CM/ECF (See LR 100).
June 1, 2006	
LR 1.2	The words "..have been" substituted for the word "..are".
LR 1.5(b)	Definition text added. Court's website address amended.
LR 1.5©)	The words "..or Filed Conventionally: added to the definition.
LR 1.5(d)	The word "includes" substituted for "refers to". The word "any" substituted for the word "to" The letter "s" dropped from "students".
LR 1.5(f)	Deleted definition of "Document". Subsequent sections renumbered.
LR 1.5(l)	Deleted definition of Filing User. Added definition for Notice of Electronic Filings Subsequent sections renumbered.
LR 1.5(k)	Added definition for PDF.
LR 1.5(l)	Deleted definition of Pleading. Added definition for Registered User.

LR 3 COMMENCEMENT OF ACTION (See Fed. R. Civ. P. 3)

LR 3.1 Format for Pleadings and Documents (See LR 10)**LR 3.2 Places of Holding Court** (See 28 U.S.C. § 117)

The Court is open to receive filings and conduct judicial business in Portland, Eugene, and Medford.

LR 3.3 Divisions of Court

The following divisions of court are established to distribute the judicial work and to align counties for juror management purposes:

- (a) **Portland Division:** Clackamas, Clatsop, Columbia, Hood River, Jefferson, Multnomah, Polk, Tillamook, Wasco, Washington, and Yamhill.
- (b) **Pendleton Division:** Baker, Crook, Gilliam, Grant, Harney, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, and Wheeler.
- (c) **Eugene Division:** Benton, Coos, Deschutes, Douglas, Lane, Lincoln, Linn, and Marion.
- (d) **Medford Division:** Curry, Jackson, Josephine, Klamath, Lake.

LR 3.4 Place of Filing (See LR 77.1)**(a) New Actions:**

- (1) **Portland Clerk's Office:** Cases arising in counties within either the Portland or Pendleton Divisions must be filed in Portland.
- (2) **Eugene Clerk's Office:** Cases arising in counties within the Eugene Division must be filed in Eugene.
- (3) **Medford Clerk's Office:** Cases arising in counties within the Medford Division must be filed in Medford.

- (b) **Subsequent Papers:** Unless otherwise directed by the Court, subsequent papers will be filed and the case file will be maintained where the case was originally filed.

- (c) **Case Reassignments to Another Division:** If a case is filed in any division other than the one required by LR 3.4(a), the Court may reassign the case to the appropriate division on its own motion or that of any party. When such an order is entered, the clerk will transfer the case file to the receiving division, and the parties must then file all subsequent papers in the new division.

LR 3.5 Place of Trial

- (a) **Usual Place of Trial:** (See LR 3.4). Unless otherwise directed by the Court, cases will be tried in the city in which the case file is maintained.
- (b) **Pendleton:** Upon motion of any party, the Court may order that a case be tried in Pendleton.
- (c) **Other Places for Conducting Trials:** In the interests of justice, the Court may order that the case be tried at any other place within the district.

LR 3.6 Initial Filing Requirements

- (a) **Advance Payment Required:** (See 28 U.S.C. § 1914(c). Before a document can be accepted for filing — or before the Clerk's Office can provide any services covered under the Schedule of Fees adopted by the Judicial Conference of the United States — the filing party, or the person requesting services, must pay all required fees, or file an *in forma pauperis* application for waiver of fees pursuant to 28 U.S.C. § 1915(a).
- (b) **Applications to Proceed In Forma Pauperis:** (See 28 U.S.C. § 1915). The clerk is directed to conditionally grant an application to proceed in forma pauperis and not delay the filing, assignment, and statistical opening of any civil action pending final review and decision on the application by the Court. (See Appendix of Forms #2).

Practice Tip	
1.	JS-44 Civil Cover Sheet Required: (See Appendix of Forms #1). A completed JS-44 Civil Cover Sheet is required to be filed with every civil complaint, petition, or other paper that initiates a civil action. Copies of the JS-44 Civil Cover Sheet are available in the Portland, Eugene, or Medford Clerk's Office.
2.	Jury Demand: (See LR 38). Checking the <input type="checkbox"/> JURY DEMAND box on the JS-44 Civil Cover Sheet does not constitute a valid jury demand pursuant to LR 38 or Fed. R. Civ. P. 38(b).

LR 3.7 Additional Service Requirements

- (a) **Case Management Scheduling Orders and Other Papers:** (See LR 16.1). At the time of filing, the Clerk's Office will issue certain documents as enumerated in LR 16.1.
- (b) **Responsibility to Serve:** Except as provided by 28 U.S.C. § 1915, the filing party is responsible for serving all documents issued by the Clerk at the time of filing upon all named parties. In cases which are removed to this court, the removing defendant is considered the "filing party" for purposes of this rule and must serve all documents issued by the Clerk at the time of filing upon all named parties.

Practice Tip
Electronic notice by the Court is not a substitute for the filing party's obligation to serve all documents issued by the Court at the time of filing upon all named parties.

LR 3.8 Sealed Cases (See LR 26.6)

- (a) **New Action:** At the time a complaint is presented for filing, any party seeking to file the case under seal must either:
 - (1) File a motion and supporting memorandum requesting the Court to seal the file. Pending the Court's ruling on the motion to seal, the case file and records will be withheld from the public record; or
 - (2) Provide a citation to the authorizing legislation (if any). Pending verification of the legislation, the case file and associated records will be sealed and withheld from the public record.
- (b) **Pending Action:** A party seeking to place a pending case under seal must file an appropriate motion requesting the Court to seal the file and all associated electronic records. (See LR 100.4(e)).
- (c) **Court's Responsibility:** After reviewing the motion and supporting materials, the Court will either:
 - (1) Grant the motion and direct the clerk to file the case and all subsequent papers and electronic records under seal and to limit future access to the sealed case to those individuals included in the order; or
 - (2) Deny the motion and direct the clerk to file the case in the public records of the Court.

- (d) **Access to Sealed Cases:** Subsequent access to the sealed case will be regulated by controlling statute or Court order.

LR 3.9 Sealed Documents (See LR 26.6)

- (a) **Sealed Documents Generally:** Portions of a document cannot be placed under seal. Instead, the entire document must be placed under seal in order to protect the confidential information.
- (b) **Filing a Document Sealed by Previous Court Order:** When a previous Court order authorizes the filing of a document or other materials under seal, the filing party must present the clerk with a copy of the Court order and submit the materials in an envelope provided by the Clerk's Office marked "SEALED MATERIALS". In addition, all documents authorized to be filed under seal must have the words "AUTHORIZED TO BE FILED UNDER SEAL" typed directly below the document title.
- (c) **Motions to File a New Document Under Seal:** Motions to file a new document under seal — even those offered by stipulation of the parties — will be handled as in camera submissions pursuant to LR 3.10.
- (d) **Motion to Seal Previously Filed Documents:** A party seeking to place under seal a document that is currently in the public record must file and serve a motion and proposed order pursuant to LR 3.9(e). Unless requested, the motion will be treated as a discovery motion pursuant to LR 26.5 and LR 26.6.
- (e) **Order to Seal Documents and/or Cases:** (See LR 79.2). A proposed order to seal a document or case must include language that:
 - (1) Identifies the persons authorized to review, copy, photograph, and/or inspect the sealed materials; and
 - (2) Instructs the clerk whether the document should be excluded from the electronic docket as well as the public case file.

LR 3.10 In Camera Submissions

- (a) **During Court Proceedings:** Documents or other materials offered and accepted for in camera inspection during a Court proceeding will be handled in accordance with LR 3.10(c).
- (b) **Tendered to the Clerk's Office:** Documents tendered ex parte to the Clerk's Office for transmission to the Court and subsequent *in camera* inspection must be:
 - (1) Accompanied by a transmittal letter or motion to the assigned judge requesting that the materials be reviewed *in camera*; and

- (2) Enclosed in a separate envelope provided by the Clerk's Office and marked:

**Sealed Materials
For *in Camera* Inspection**

- (c) **Court Responsibility:** After completing the *in camera* inspection, the Court will direct the Clerk's Office to:
 - (1) File the documents or materials in the public record; or
 - (2) File the documents under seal with appropriate disclosure instructions to the clerk; or
 - (3) Direct that the documents should be returned to the offering party with appropriate instructions.
- (d) **Order Regulating Subsequent Disclosure:** (See LR 3.9(e)).

LR 3.11 Return of Sealed Documents to the Public Record

- (a) **Unsealing Documents and Cases:** Because the Federal Records Center prohibits storage of sealed records or documents, the clerk must unseal all documents and cases prior to shipment of any record to the Federal Records Center.
- (b) **Application to Return Sealed Documents:** Therefore, not later than sixty (60) days after a case is closed, or within sixty (60) days after the conclusion of any appeal, any party may file and serve a motion to have the clerk return a sealed document.
- (c) **Authorization to Unseal Documents or Cases:** Unless otherwise restricted by federal law, and absent an application pursuant to LR 3.11(b), the Clerk is authorized to unseal all previously sealed civil documents and cases before a record is shipped to the Federal Records Center.

Amendment History to LR 3	
June 1, 2006	
Generally	Cross References updated throughout the rule. The word "Memoranda" changed to "Memorandum" throughout the rule.
LR 3.4(a)(1) (2) and (3)	The word "in" substituted for the word "from". The word "must" substituted for the word "will".
LR 3.4(c)	The word ".. Court" substituted for the word "..judge". The word "its" substituted for the word "their".
LR 3.7(a)	The phrase beginning with "..certain documents as enumerated in LR 16.1." substituted for the phrase beginning with " .. a case management scheduling order...."
LR 3.7(b)	The line beginning with "In cases which..." added. Practice Tip added
LR 3.8(a) (2)	The word "Upon" in second sentence replaced with "Pending".

LR 4 SUMMONS (See Fed. R. Civ. P. 4)

- LR 4.1 Summons** (See Fed. R. Civ. P. 4(a) and (b)) (See Appendix of Forms #3)
All summonses — along with sufficient copies for service — will be prepared by the filing party and presented to the clerk for issuance.
- LR 4.2 Amended Summons** (See Fed. R. Civ. P. 4(a))
An amended summons must be titled **AMENDED SUMMONS**; must be reproduced without interlined changes; and must be served pursuant to Fed. R. Civ. P. 4(c).
- LR 4.3 Service by US Marshal’s Personnel** (See Fed. R. Civ. P. 4(c)(2))
Unless required by law or statute — or upon application for good cause shown and subsequent Court order — U.S. Marshal’s Office personnel will not serve the complaint and summons in private civil actions.
- LR 4.4 Waiver of Service of Summons -- Option** (See Fed. R. Civ. P. 4(d))
- (a) **Time Limits:** (See Fed. R. Civ. P. 4(d)(2)(F)). Unless otherwise permitted by the Court, the reasonable time to return the waiver is thirty (30) days from the date on which the request is sent, or sixty (60) days from the date if the defendant is addressed outside any judicial district of the United States.
- (b) **Motion to Collect the Cost of Service:** (See Fed. R. Civ. P. 4(d)(2)(G)). A motion and affidavit to recover costs of service pursuant to Fed. R. Civ. P. 4(d)(2)(G) and 4(d)(5) must include:
- (1) Certification of the actions taken to implement the waiver of service option;
- (2) Itemization of the costs incurred in effecting service pursuant to Fed. R. Civ. P. 4(e), (f), or (h); and
- (3) Explanation of the method and rates used to calculate any reasonable attorney fees associated with the motion.

<u>Amendment History to LR 4</u>	
<u>June 1, 2006</u>	
Generally	Cross References to Appendix of Forms Updated

LR 5 SERVICE & FILING OF PLEADINGS & PAPERS (See Fed. R. Civ. P. 5 and LR 100.7)

LR 5.1 Filing Requirements

- (a) **Generally:** All documents filed with the Court by a Registered User shall be in accordance with the Electronic Filing Procedures set forth in these local rules. (See LR 100).
- (b) **Paper Copy:** Unless electronically filed, a paper required or permitted to be filed in the district Court must be filed with the clerk in order to be docketed and included in the record of the case.
- (c) **Copies of Pleadings and Documents:** (See *also* LR 100.4(b)). Parties must file an original and one copy of every conventionally filed pleading and document, including exhibits to documents.
- (d) **Proposed Forms of Orders or Judgments:** (See LR 79.2). Proposed forms of order or judgments should not be submitted unless requested by the Court.
- (e) **Request for Conformed Copies:** A party may request the Clerk to conform a copy of any document presented for filing. However, the filing party must provide the Clerk with a copy of the document and a postage-paid and self-addressed return envelope. Without the extra copy and postage-paid envelope, the Clerk will not conform and return the document by mail.
- (f) **Return of Unfiled Documents or Correspondence:** The Clerk will not accept for filing any courtesy or information copies of documents or correspondence exchanged between the parties unless they are contemporaneously filed as an exhibit or appendix to a pleading or other document.
- (g) **Letter Correspondence to the Court:** Unless directed by the Court, letters to the Court will not be docketed and included in the case file. (See Fed. R. App. P. 10(a) for guidance about including undocketed correspondence in the official record on appeal).

Practice Tip	
1.	Do not file pleadings, documents, jury instructions, exhibits, etc. (whether original or a copy) with chambers. Instead, file all documents directly with the Clerk's Office
2.	Time-Sensitive Documents: If a document relates to a scheduled court proceeding that is to be held within three (3) days of the filing date, the filing party should notify the courtroom deputy at the time of filing and request that chambers be promptly notified of the filing.
3.	Filings Offered During Court Proceedings: Parties tendering documents for filing during a Court proceeding are responsible for filing the document with the Clerk's Office immediately after the Court proceeding.
4.	Documents hand delivered or faxed to the Court should normally be hand delivered, faxed, or e-mailed to opposing counsel on the same day and at about the same time.

LR 5.2 Documents Not Filed With the Court

- (a) Unless required by the Court in a particular proceeding, the following documents must be retained by the parties and not filed with the Court:
- (1) Notices of depositions and transcripts (See LR 27 and LR 30);
 - (2) Interrogatories and responses (See LR 33);
 - (3) Requests for production and responses (See LR 34);
 - (4) Requests for admissions and responses (See LR 36);
 - (5) Expert witness disclosures (See LR 16 and LR 26);
 - (6) Unaccepted offers of judgment (See LR 68); and
 - (7) Initial Disclosures. (See LR 26)
- (b) **Service of Non-Filed Documents on Parties:** Any document enumerated in LR 5.2(a) served pursuant to Fed. R. Civ. P. 5 shall also be served concurrently on a party by e-mail. Interrogatories, requests for production, and request for admissions shall be e-mailed in Word or Word Perfect format, not in PDF format, unless otherwise agreed to by the parties.

Commentary
<p>The purpose of this rule is to allow counsel to prepare responses to non-filed documents easily and efficiently. This rule does not affect the prescribed period for taking any action in response to the document. The time will be calculated according to the selected method of conventional service. Thus, if the non-filed document was served by mail, the party would still have an additional three (3) days to respond pursuant to Fed. R. Civ. P. 6(e). Counsel also should refer to LR 100.7 relating to electronic service.</p>

LR 5.3 Facsimile (FAX) Filings (See LR 11.3)

Facsimile filings are not allowed except in emergency situations, and then only when expressly approved in advance by the assigned judge and coordinated with the Clerk's Office.

LR 5.4 After Business Hours Filings (See LR 77.3(c) and LR 100.5)

LR 5.5 Personal Data Identifiers (See also Proposed Fed. R. Civ. P. 5.2)

- (a) **Policy:** In compliance with the policy of the Judicial Conference of the United States, and in order to promote electronic access to case files while also protecting personal privacy and other legitimate interests, parties shall refrain from including, or shall redact where inclusion is necessary, the following personal identifiers from all pleadings filed with the Court, including exhibits thereto, whether filed electronically or in paper, unless otherwise ordered by the Court.
 - (1) **Social Security Numbers:** If an individual's social security number must be included in a pleading, only the last four digits of that number should be used.
 - (2) **Names of Minor Children:** If the involvement of a minor child must be mentioned, only the initials of that child should be used.
 - (3) **Dates of Birth:** If an individual's date of birth must be included in a pleading, only the year should be used.
 - (4) **Financial Account Numbers:** If financial account numbers are relevant, only the last four digits should be used.
- (b) **Responsibility:** The responsibility for redacting these personal identifiers rests solely with counsel and the parties. The Clerk will not review pleadings for compliance with this rule.
- (c) **Exemptions:** The transcript of the administrative record in social security proceedings is exempt from the requirements of this rule.

(d) **Redaction:** In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers listed above may:

- (1) File an unredacted version of the document under seal; or
- (2) File a reference list under seal. The reference list shall contain the complete personal data identifier(s) and the redacted identifier(s) used in its (their) place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete personal data identifier. The reference list must be filed under seal and may be amended as of right.
- (3) The unredacted version of the document or the reference list shall be retained by the Court as part of the record. The Court may, however, still require the party to file a redacted copy for the public file.

Amendment History to LR 5	
June 1, 2000	
LR 5.1(c)(5)	The word "Handling" was stricken.
June 1, 2002	
LR 5	Generally - cross-references added.
LR 5.1(c)	Section (c) deleted and moved to LR 5.2(a). Subsequent rules re-numbered.
LR 5.2(b)	New Rule.
LR 5.3	Advisory Note Amended by striking Note #4.
June 1, 2006	
Generally	Cross References added and updated.
LR 5.1(a)	New Rule. Subsequent sections re-lettered.
LR 5.1(b)	New Rule. Text from LR 5.3 was moved to LR 5.1(b).
LR 5.1(c)	The word "conventionally filed" added.
LR 5.1(d)	New Rule. Text from old LR 100.10 moved to this new rule.
LR 5.1(g)	Item #4 added to Practice Tip.
LR 5.2	Heading modified.
LR 5.2 (b)	The phrase "...enumerated in LR 5.2(a)(2),(3), and (4).." added to second sentence.
LR 5.3	Rule text moved to LR 5.1(b). Subsequent sections renumbered
LR 5.5	New Rule. Moved text of LR 10.3 to this rule. Heading "Policy" was added. The phrase "...on or after June 1, 2002..." stricken Sections (b)(c) and (d) added to conform with August 2, 2004 amendments to the E-Government Act of 2002.

LR 6 TIME (See Fed. R. Civ. P. 6)

LR 6.1 Time for Filing Motions and Responses (See LR 7 and LR 29)

- (a) **Time:** Time for filing motions and responses is controlled by LR 7, LR 29, and Fed. R. Civ. P. 6.
- (b) **Stipulation:** A stipulation is not an order; it does not extend any deadline imposed by Court order.

Practice Tip
Fed. R. Civ. P. 6(b) requires showing of good cause and a Court order to extend any deadline that is imposed by the Federal Rules of Civil Procedure or Court order.

LR 6.2 Notice of Appeal (See Fed. R. App. P. 4)

- (a) **Designation of Record on Appeal:** (See Fed. R. App. P. 10).
- (b) **Payment of Transcript Costs:** (See Fed. R. App. P. 10(b)(4)). The court reporter supervisor will notify the Court of Appeals whenever a party fails to make satisfactory arrangements to pay for the transcript on appeal.

LR 6.3 Timetable for Lawyers (See Appendix of Forms #4)

Amendment History to LR 6	
June 1, 2002	
LR 6.1	Practice Tip Amended to add "imposed by the Federal Rules of Civil Procedure"
LR 6.3	New Rule: A comprehensive Timetable for Lawyers was added.
December 1, 2005	
Generally	Cross References added. Appendix of Forms numbers updated.
LR 6.1	New Rules (a) and (b). The phrase "showing of good cause and..." added to the Practice Tip. Practice Tips # 2 and #3 deleted.

LR 7.1 Motions Practice — Generally

(a) Certification Requirements

- (1)** Except for motions for temporary restraining orders, the first paragraph of every motion must certify that:
 - (A)** The parties made a good faith effort through personal or telephone conferences to resolve the dispute and have been unable to do so; or
 - (B)** The opposing party willfully refused to confer; or
 - (C)** The moving party or opposing party is a prisoner not represented by counsel.
- (2)** The Court may deny any motion that fails to meet this certification requirement.
- (3)** A party filing a motion should state "UNOPPOSED" in the caption if the other parties to the action do not oppose the motion.

Practice Tip	
1.	The certification requirements of LR 7.1 are broader than those established in Fed. R. Civ. P. 37(a)(4), which deals only with motions to compel discovery.
2.	In cases in which one or more parties are proceeding <i>pro se</i> , counsel should document a good faith effort to consult with the unrepresented party. The Court will determine compliance with LR 7.1 on a case by case basis. (See LR 55.1)

- (b) Separate Documents:** Motions may not be combined with any response, reply, or other pleading.
- (c) Supporting Memoranda:** (See Fed. R. Civ. P. 7(b)). Every motion must be accompanied by a separately filed legal memorandum. A legal memorandum exceeding twenty (20) pages must have a table of contents and a table of cases and authorities with page references.

(d) **Limitations on Oral Argument**

- (1) **Court Hearing:** The Court will decide each motion without oral argument unless the Court determines that oral argument would help it resolve the matter. If the Court elects to hear oral argument, the Court will notify the parties of the date and time for any hearing.
- (2) **Request for Oral Argument:** A party seeking oral argument must include “Request for Oral Argument” on the last line of the caption to the motion or response, e.g.,

Plaintiff Smith Corporation’s
MOTION FOR PROTECTIVE ORDER
Pursuant to Fed. R. Civ. P. 26(c)(1)
Request for Oral Argument

- (3) **Oral Argument by Telephone Conference:** A party may request that oral argument be by telephone conference.
- (4) **Waiver of Oral Argument:** A party waives oral argument by:
 - (A) Failing to timely file any memorandum or other statement required by LR 7, LR 26, LR 37, or LR 56; or
 - (B) Filing late any paper allowed by LR 7, LR 26, LR 37, or LR 56.

(e) **Time Limits for Discovery and Non-Discovery Motions**

- (1) **Response:** A party must file and serve any response within eleven (11) days after service of the motion.
- (2) **Reply:** A party must file and serve any allowable reply to the response within eleven (11) days after service of the response. (See LR 26.5(c)).
- (3) **Other Memoranda:** Unless directed by the Court, no further briefing is allowed.
- (4) **Taking Under Advisement:** Unless otherwise directed by the Court, both discovery and non-discovery motions will be taken under advisement at the close of the time limits set forth in LR 7.1(e).

- (f) **Request for Expedited Hearing:** A party seeking expedited hearing must include “EXPEDITED HEARING REQUESTED” on the last line of the document’s title, e.g.,

Plaintiff Smith Corporation's
MOTION FOR PROTECTIVE ORDER
Pursuant to Fed. R. Civ. P.26(c)
Expedited Hearing Requested

- (g) **Reminders to the Court** (See LR 83.13)

LR 7.2 Non-Discovery Motions

- (a) **Document Designation:** (See LR 10.2). The document title shall substantially comply with the following format:

Defendant ABC Corporation's
MOTION FOR SUMMARY JUDGMENT

- (b) **Page Limits:** Without prior Court approval, memoranda, (including objections to a Findings and Recommendation of a Magistrate Judge and responses to such objections) must be 35 pages or less exclusive of exhibits.

- (c) **Calendaring:** (See LR 7.1(d)(1) and LR 7.1(e)(4)).

LR 7.3 Discovery Motions (See Fed. R. Civ. P. 37 and LR 26.5).

LR 7.4 Preliminary Injunctions & Temporary Restraining Orders (See LR 65)

LR 7.5 Motions for Summary Judgment (See LR 56)

LR 7.6 Motions to Consolidate Complex or Related Cases (See LR 42)

Amendment History to LR 7	
June 1, 2002	
LR 7.1(a)(1)	Motions for Temporary Restraining Orders specifically excluded.
LR 7.1(a)(1)(c)	New Rule.
LR 7.1(b)	New Rule. Subsequent rules renumbered.
LR 7.2(b)	The phrase "(including objections....)" added.
June 1, 2006	
Generally	The word "brief" and "briefs" stricken and replaced with "memorandum" or "memoranda" as appropriate throughout. Cross References updated Document Title examples modified throughout. "Advisory Note" changed to "Practice Tip".
LR 7.1(a)(3)	New Rule.
LR 7.1(a)(3)	Item #2 added.
LR 7.1(c)	The word "Affidavit" stricken from the heading title. The sentence beginning "A legal memorandum...." added.
LR 7.1(d)	Deleted this section and moved it to LR 7.1(c). Subsequent sections re-lettered.
LR7.1(e)	Deleted this section. Subsequent sections re-lettered.
LR 7.3	Sections (a), (b) and (c) deleted and moved to LR 26.5.
LR 7.5	Text portion of rule deleted.

LR 10.1 Format Requirements

- (a) **Paper Requirements:** Pleadings and documents must be presented on 8 ½" x 11" unnumbered white paper of good quality (not less than 13-pound weight), flat and unfolded, without back or cover, **pre-punched** with two (2) holes (approximately 1/4" diameter) centered 2-3/4" apart and ½" to 5/8" from the top of the paper.
- (b) **Legibility:** Pleadings and documents must be typewritten, neatly printed, or otherwise legibly reproduced, using blue or black ink, and presented on one side only.
- (c) **Line Spacing:** All papers must be double-spaced except for the identification of counsel, title of the case, footnotes, quotations, and exhibits.
- (d) **Minimum Type Size for Text, Footnotes and Endnotes:** Typewritten materials, **including footnotes and endnotes**¹, must be presented using fonts of at least twelve (12) point type size that produce a maximum of ten (10) typed characters per inch.
- (e) **Page Margins:** Pleadings and documents tendered for filing must have one (1) inch margins on the top, bottom, left, and right sides.
- (f) **Stapled or Fastened:** All pleadings and documents one (1) inch or less in thickness must be stapled in the upper left hand corner. Larger documents must be secured by a permanent fastening device.
- (g) **Pagination Requirements:**
 - (1) Every page of a pleading or document (not including attachments or exhibits) must contain a brief description of the pleading or document, and a consecutive page number at the bottom of the page.
 - (2) All exhibits or attachments to pleadings and documents will be clearly numbered.

Practice Tip
A footer need not be included on exhibits or attachments. Exhibits or attachments must be clearly numbered, either in the original or with numbers added by counsel, so that a particular page of the exhibit can be easily located by the Court and counsel.

¹ This footnote is typed in a True Type Times New Roman 12-point font.

(h) **Interlineation** (See LR 15.1(e))

LR 10.2 Caption Requirements (See LR 15.1 and Appendix of Forms #5)

(a) **Counsel Information:** Type counsel information in the upper left corner on the first page, starting one (1) inch from the top of the page on unnumbered paper. An example of how to format this information is presented below:

First Attorney's Name, Oregon State Bar ID Number
First Attorney's Internet E-mail address
Second Attorney's Name, Oregon State Bar ID Number
Second Attorney's Internet E-mail address
Firm name
Mailing address or residence address if no office is maintained
City, State and 9-digit zip code
Area Code and Telephone Number
Facsimile Telephone Number
Attorney(s) for Plaintiff Smith Corporation, Inc.

Practice Tip	
1.	Identifying Lead Counsel: List the name of the attorney who has primary litigation responsibility for the case first; <p style="text-align: center;">- - then - -</p> if other attorneys are affiliated with the case, you may include them on subsequent lines. However, paper notices from the Court will be sent only to "lead counsel" (if local) or to local counsel exempt from CM/ECF registration (See LR 83.1(e)). Reference may also be made to the signature page for a complete list of counsel submitting the document for filing.
2.	Identifying Associate (Out-of-State) Counsel: Always list out-of-state counsel in a subsequent paragraph below the local Oregon counsel name and address information. Paper notices from the Court will only be sent to local Oregon attorneys exempt from CM/ECF. registration. (See LR 83.1(e)).
3.	Representation in Multi-Party Cases: In multi-party cases, counsel must clearly identify the specific party or parties they are representing when not representing all plaintiffs or defendants.

- (b) **Court Title:** Double space, capitalize and center the title of the Court at least one (1) inch below the last line of the counsel information paragraph, e.g., :

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

- (c) **Clerk's Authorization to Return Documents:** The clerk is directed to return without filing, and without action, all documents and papers presented for filing that do not comply with the requirements of LR 10.2(b). The offering party should be directed to re-submit the document(s) to comply with court titling requirements of the local rule.
- (d) **Party Names:** Single space the names of the parties along the left margin, four (4) lines from the bottom of the court title. If the parties are too numerous, the names may be continued on the second or successive pages in the same space.
- (e) **Eliminate Brackets Following Party Name Information:** Do not use brackets ")" to set off party names from the document title.
- (f) **Case Number:** Right justify the case number on the same line as the first named plaintiff. The case number will be assigned by the Clerk's Office at the time the initial filing is made, and should appear on all subsequent filings, e.g., :

04-CV-1111-RE

- (g) **Document Title:** At least two lines below the case number, single space and capitalize a concise description of the nature of the document.

COMPLAINT
Personal Injury Action (28 U.S.C. § 1332)
DEMAND FOR JURY TRIAL

LR 10.3 Affidavits and Declarations:

- (a) Affidavits or declarations will be filed separately from the underlying document, and must include the name of the related document within the document title, e.g.:

AFFIDAVIT OF JOHN S. HONEST, Esquire
In Support of Plaintiff Smith Corporation's
Motion for Summary Judgment

- (b) The affiant's signature on the affidavit must be notarized.
- (c) An unsworn declaration under penalty of perjury may be filed pursuant to 28 U.S.C. §1746. (See *also* LR 100.6 and LR 100.10).

LR 10.4 Claims of Unconstitutionality

- (a) **Motion Requirements:** In any case in which the constitutionality of an Act of Congress is brought into question and the United States or any agency, officer, or employee thereof is not a party; or a statute of a state is brought into question and that state or any agency, officer, or employee thereof is not a party; then the party raising the constitutional issue must file a motion (and memorandum in support) that the case be certified in accordance with 28 U.S.C. § 2403.
- (b) **Proposed Certification:** In addition to the motion and memorandum, the moving party will also conventionally file two (2) copies of a proposed form of certification for execution and transmission by the Court to either the Attorney General of the United States or the State Attorney General, as appropriate.

LR 10.5 Multi-District Litigation (See 28 U.S.C. § 1407)

LR 10.6 Patent, Trademark, or Copyright Cases

- (a) **Document Title:** The word **PATENT, TRADEMARK** or **COPYRIGHT** must appear in the narrative description of the document initial complaint, e.g., ;

COMPLAINT FOR TRADEMARK INFRINGEMENT
Jury Demand Requested

- (b) **Pleading Requirements:** In a separately numbered paragraph within the body of the complaint, the filing party must identify the owner's full name; date of issuance; and the registration number of the relevant patent, trademark, or copyright.

LR 10.7 Removal Actions (See 28 U.S.C. §1441, et seq.)

LR 10.8 United States as a Party (See 28 U.S.C. §2401, et seq.)

LR 10.9 Individuals With Disabilities Education Act (IDEA) Cases

- (a) **Document Title Requirements:** The words **INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA)** must appear in the description of the document title, e.g., :

COMPLAINT
Individuals with Disabilities Education Act (IDEA)

- (b) **Court Scheduling Order:** (See Appendix of Forms #6).

LR 10.10 Page Limitations Cross Reference Guide (See Appendix of Forms #7)

Amendment History to LR 10	
June 1, 2002	
LR 10.1(a)	Subsection re-titled. Language from LR 10.2(e) added and modified to include requirement for unnumbered paper. Subsequent rules re-numbered.
LR 10.1(d)	Amended to substitute "maximum" for "minimum".
LR 10.1(e)	Language moved to LR10.1(a). Subsequent rules re-numbered.
LR 10.1(g)	Subsection (1) amended to add "...of a pleading or document...." Subsection (2) amended to add "...and documents will be clearly numbered."
LR 10.2(a)	Cross Reference to LR 15.1 added. Last sentence "An example..."added for clarity. Advisory Notes modified to conform with e-noticing methods of CM/EC.
LR 10.2(c)	New Rule. Subsequent sections re-lettered.
LR 10.2(e)	New Rule. Subsequent sections re-lettered.
LR 10.3	This is a new rule to reflect Judicial Conference policy (See Appendix of Forms). The previous version of LR 10.3, and all following rules, have been renumbered accordingly.
LR 10.4	Amended to require that the affiant's signature be notarized.
LR 10.7(a)	Amended to substitute "initial complaint" for "document".
LR 10.10(b)	Amended to substitute "may" for "will".
LR 10.11	New rule. Page Limitations Cross Reference Guide added.
July 1, 2002	
LR 10.3(b)	Amended to exempt administrative records in social security proceedings.
April 16, 2003	
LR 10.3(a)	Amended pursuant to the E-Government Act of 2002.
June 1, 2006	
Generally	Changed "Advisory Note.." to "Practice Tip" throughout. Format Examples modified. Cross References updated throughout. Appendix of Forms numbers updated. Format of numerals modified throughout, i.e. "ten (10)"
LR 10.1(a)	Practice Tip deleted.
LR 10.2(f)	The sentence beginning with "The case number..." restructured.
LR 10.3	Deleted and moved to LR 5.5. Subsequent sections re-numbered.
LR 10.3	The word "Declarations" added to the section heading and body of the rule New subsections (b) and (c) added.
LR 10.4(b)	The word "...conventionally" added.

LR 10.9(b)	"The Court may issue..." sentence deleted.
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LR 11 SIGNATURE REQUIREMENTS (See Fed. R. Civ. P. 11)

- LR 11.1 Signature Requirements on Conventional Filings** (See Fed. R. Civ. P. 11(a))
Pleadings, motions, and other paper presented for filing must be signed in accordance with Fed. R. Civ. P. 11(a). In addition, the name of the attorney, bar identification number, telephone number, and reference to the represented party will be typed directly under the signature line, e.g., :

John Q. Attorney
JOHN Q. ATTORNEY
OSB # 999-99999
[541] 999-9999
Attorney for Plaintiff Smith Corporation, Inc.

- LR 11.2 Signature Requirements on Electronic Filings** (See LR 100.6)

- LR 11.3 Signature Requirements on Facsimile Filings** (See Fed. R. Civ. P. 5(e) and LR 5.3)

- (a) **Signature Requirements:** Where emergency facsimile filings are permitted, the original of the facsimile filing must be signed by an attorney of record pursuant to Fed. R. Civ. P. 11(a) and LR 11.1.
- (b) **Submission of the Original Document:** Because of potential record clarity problems in facsimile document transmissions, the original of any FAX filing must be filed with the clerk within three (3) days of the date of the facsimile transmission.
- (c) **Certification by the Filing Attorney:** In addition to filing the original document required by the preceding rule, counsel must file an affidavit certifying that:
 - (1) The document tendered for filing is the original document used in the FAX transmission; and
 - (2) No changes, alterations or other modifications to the FAX transmission have been made.

Amendment History to LR 11	
June 1, 2002	
LR 11.2	New rule was added and cross-referenced to the Cm/ECF rule – LR 100.6.
June 1, 2006	
Generally	Cross References Updated Numeric expressions format modified; i.e. "ten (10)".
LR 11.3(c)(2)	The word "That" stricken.

LR 15 AMENDED and SUPPLEMENTAL PLEADINGS (See Fed. R. Civ. P. 15)

LR 15.1 Amended and Supplemental Pleadings (See LR 10.2)

- (a) **Amended Document Title:** The word **AMENDED** --and iteration number-- must be included in the revised document title, e.g.

THIRD AMENDED COMPLAINT

- (b) **Supplemental Document Title:** The word **SUPPLEMENTAL** must be included in a supplemental document title.

- (c) **Amended Document Requirements:** Any party filing, or moving to file, an amended or supplemental pleading must:

- (1) Reproduce the entire pleading, and may not incorporate any part of the prior pleading by reference; and
- (2) Describe the changes made.

- (d) **Exhibits to a Motion**

- (1) A copy of the proposed amended pleading must be attached as an exhibit to any motion for leave to file the amended pleading.
- (2) Upon entry of an order granting the motion, the original amended pleading must be submitted to the clerk for filing.
- (3) The clerk will not detach the proposed amended pleading from the motion.

- (e) **Amendments by Interlineation:** Amendments by interlineation are allowed only by order of the Court.

Amendment History to LR 15	
June 1, 2002	
LR 15.1	Cross Reference to LR 10.2 is added, and the example has been modified.
June 1, 2006	
LR 15.1(a)	Format example is modified The word "number" added.
LR 15.1(d)(2)	The word "submitted" substituted for "tendered"
LR 15.1(e)	The word "the" added.

LR 16 PRETRIAL CONFERENCES, SCHEDULING, AND CASE MANAGEMENT
(See Fed. R. Civ. P. 16)

LR 16.1 Court Actions Upon Initial Filing (See LR 3.7)
At the time of the initial case filing, the Clerk's Office will:

- (a) Randomly select an assigned judge in accordance with the Court's Case Management Plan and assign a case number;
- (b) Issue Consent to Jurisdiction by a U. S. Magistrate Judge forms and other information packets (See Appendix of Forms #9).
- (c) Issue summons and other appropriate process.
- (d) Issue a scheduling order as appropriate for the case. (See samples in Appendix of Forms #8).

LR 16.2 Rule 16 Conferences (See Fed. R. Civ. P. 16)
Unless otherwise ordered by the Court:

- (a) **Counsel's Duty to Request Conference:** Counsel for plaintiff(s) and for defendant(s), during or promptly after the conference of counsel for discovery planning referred to in LR 26.1, shall contact the assigned judge's courtroom deputy and request a Rule 16(b) scheduling and planning conference.
- (b) **Calendaring:** At the Rule 16(b) scheduling and planning conference, counsel for the parties shall have their calendars available and be prepared to discuss any of the issues enumerated in Fed. R. Civ. P. 16(b) and 16(c), including proposed modifications to the schedule outlined in the initial Discovery and Pretrial Scheduling Order issued by the Court at the commencement of the action.
- (c) **Conference Request Made At Any Time:** Notwithstanding anything in this or any other local rule, any party may ask for a conference pursuant to Fed. R. Civ. P. 16 at any time. This subsection applies to all civil cases, including those categories of cases mentioned in Fed. R. Civ. P. 26(a)(1)(E).
- (d) **Sample:** See Appendix of Forms #14 for an example of a type of order that may be used for the final pretrial conference held pursuant to Fed. R. Civ. P. 16(d). Requirements may vary depending upon the nature of the case.

- (e) **Completion of Discovery Defined:** The initial case scheduling order establishes the time for completion of discovery. Unless otherwise directed by the Court, the following discovery related events must be completed by the completion of discovery date:
- (1) All depositions must be taken, including depositions to preserve testimony for trial.
 - (2) All interrogatory or other discovery requests must be answered.
 - (3) All documents must be produced pursuant to request.
 - (4) The Court will not require a response to a discovery request that is made with insufficient time for a party to respond prior to the completion of discovery date.
 - (5) Completion of discovery does not include expert depositions taken pursuant to Fed. R. Civ. P. 26(b)(4)(A) and LR 26.4.

LR 16.3 Objections to Court Imposed Deadlines

- (a) **Objections:** Except as provided by LR 16.2(b), objections to any court-imposed deadline must be raised by motion and must:
- (1) Show good cause why the deadlines should be modified.
 - (2) Show effective prior use of time;
 - (3) Recommend a new date for the deadline in question.
 - (4) Show the impact of the proposed extension upon other existing deadlines, settings, or schedules.
- (b) **Stipulations to Extend Deadlines or Schedules** (See LR 6 and LR 29)

LR 16.4 Alternate Dispute Resolution (ADR) (See Fed. R. Civ. P. 16(c)(12))

- (a) **Scope and Application:** Unless otherwise directed by the Court or as provided in paragraph (b) below, this rule applies to all civil cases filed in the district court.
- (b) **Exemptions:** The following class of cases are exempt from this rule:
- Habeas Corpus Petitions;
 - Prisoner Suits;
 - 28 U.S.C. §2255 Claims;
 - Social Security Appeals;
 - Civil Forfeitures;
 - *Qui Tam* Actions;
 - IRS Summons Enforcement Actions;
 - Student Loan Collection;
 - Veterans Overpayment;
 - Multi-district Litigation;
 - Bankruptcy Appeals;
 - Cases Involving *Pro Se* Litigants.
- (c) **ADR Conference Requirements:** (See LR 16.4(e)-(g)). Not later than one hundred-twenty (120) days from the initiation of a lawsuit, counsel for all parties (after conferring with their clients) must confer with all other attorneys of record and all unrepresented parties, to discuss whether the case would benefit from any private or court sponsored ADR option.
- (d) **Joint ADR Report:** (See Appendix of Forms #11). Within one hundred-fifty (150) days of the initiation of a lawsuit, the parties must file a Joint Alternate Dispute Resolution Report.
- (e) **ADR Options – Generally**
- (1) **Party Initiated:**
- (A) **Private ADR:** The parties may agree to pursue mediation, or any other form of alternate dispute resolution, at any time in the life of a civil case.
- (B) **Request for Court Sponsored Volunteer Mediation:** (See LR 16.4(f)(1)(A)).
- (C) **Request for a Settlement Judge:** (See LR 16.5).

(2) Court-Directed Mediation:

- (A)** The Court on its own motion, or upon the motion or request of a party, may refer any civil case to mediation. As a general rule, the Court will refer cases with financial resources to private mediators or mediation services, and will refer cases with limited financial resources, or indigent parties, to the Court's panel of volunteer mediators.
- (B)** When the Court makes a referral to private mediation, the parties select and compensate the mediator and, in conjunction with the mediator, agree to the time, place, and duration of the mediation.
- (C)** During the conduct of Court-directed mediation, mediators act as officers of the court and have judicial immunity.

(f) Court-Sponsored Volunteer Mediation Program:

(1) Selection of a Volunteer Mediator:

- (A)** Subject to the conditions of paragraph (e)(2)(A), any party may move to have a case referred to one of the Court's volunteer mediators.
- (B)** If the motion is granted, the Court will enter an order directing reference to volunteer mediation. Upon entry of the order, the parties will be asked to select a mediator from the Court's list of volunteer mediators, and to work with the mediator to agree to the time, place, and duration of the mediation.
- (C)** As a general rule, volunteer mediators agree to conduct mediation without costs to the parties for four (4) hours. After that point, any decision to continue mediation, with or without compensation, must be agreed to by the mediator and the parties.
- (D)** If the parties cannot agree upon a mediator within ten (10) days after entry of the order, the attorney for the plaintiff must notify the Court, who will then designate a mediator.

(2) Mediation Procedure:

- (A)** After entry of the order of reference to mediation, the parties are required to provide such information and advice as the mediator requires.

- (B)** Generally, the mediator will schedule a preliminary conference prior to the mediation. The mediator may also require the parties to participate in the preliminary conference along with their attorneys.
- (C)** The attorney responsible for each party's case will attend the mediation and any adjourned sessions. At the mediation, the attorney for each party must be prepared to discuss in good faith:

 - (i)** All liability issues;
 - (ii)** All damage issues; and
 - (iii)** The position of his or her client relative to settlement.
- (D)** Unless excused by the mediator, clients must be available and must attend the mediation.
- (E)** The mediator will determine whether parties will be present in the conference room, and if so, how they will be asked to participate.
- (F)** Parties whose defense is provided by a liability insurance company need not personally attend the mediation conference. However, if a representative of the insurer is available in the district, that representative must attend and must be empowered to bind the insurer to a settlement if a settlement can be reached within the limits set by the insurer.
- (G)** In all cases, any person with authority must be present or available by telephone. However, the United States may be represented by the trial attorney.
- (H)** Unless excused from attendance by the mediator, an attorney or client's willful failure to attend the mediation must be reported to the Court by the mediator and may result in the imposition of sanctions.

(g) Proceedings Privileged:

- (1)** ADR proceedings (including all statements made by a party, attorney, or other participant, and/or any memorandum or written submission provided to the mediator or ADR facilitator), are privileged -- and, except as otherwise authorized by the Federal Rules of Evidence, will not be reported, recorded, or otherwise placed in evidence; made known to the trial court or jury; or construed for any purpose as an admission against interest.
- (2)** Unless waived in advance by the parties, or as otherwise authorized by the Court, this privilege applies to ADR proceedings conducted pursuant to LR 16.4(e)(1) and (2).
- (3)** No party will be bound by anything done or said at the conference unless a settlement is reached, in which event, the agreement upon a settlement will be reduced to writing under the direction of the mediator and will be binding upon all parties to that agreement. In a dispute between the parties regarding the terms of the settlement, the terms of the settlement as communicated by the mediator and accepted by the parties are not privileged under LR 16.4(g)(1).

(h) Proceedings Upon Failure to Achieve an ADR Settlement

- (1) Private ADR:** Not later than seven (7) days following the conclusion of private ADR proceedings, plaintiff's attorney will notify the Court in writing:
 - (A)** Whether settlement (in whole or in part) was achieved; or
 - (B)** Whether settlement could not be achieved and whether any (or all) of the parties believe that further judicial intervention (including the possibility of a settlement judge), will help to resolve the case.
 - (2) Court-Appointed Private or Volunteer Mediation:** The Court-appointed mediator will promptly notify the Court if no settlement is achieved. The mediator will also inform the Court whether he or she believes intervention by a settlement judge may help to resolve the matter.
- (i) No Stay of Action During ADR:** Unless directed by the Court, no stay of an action will take place during ADR. In addition, no scheduled dates for any required submission or proceeding, including trial, will be changed.

(j) Qualifications and Requirements of Mediators

- (1)** As a general rule, the parties may select and thereby set the qualifications of a private mediator or mediation service, subject only to the requirements of LR 16.4(g).
- (2)** Volunteer mediators must submit an agreement to serve (See Appendix of Forms #10), advise the court in which divisions of this court they are willing to serve, and agree to perform at least eight hours of volunteer mediation service per year without payment. Volunteer mediators must be members in good standing of the Oregon State Bar who have been admitted to practice before the federal courts for a minimum of five years, or be a retired or senior judge.
- (3)** The Clerk will maintain a list of volunteer mediators by division of this Court.

(k) ADR Program Administration

- (1)** An ADR Administrator shall be responsible for implementing, administering, overseeing and evaluating the ADR program and procedures covered by Local Rule 16.4.
- (2)** The Clerk shall make pertinent rules and explanatory materials available to the parties.

LR 16.5 Judicial Settlement Conferences

- (a) The Court on its own motion, or the request of a party, may schedule a settlement conference.
- (b) The Court on its own motion, or upon motion or request of any party, may assign any civil case for a non-binding summary trial (including summary jury trial, for cases triable to a jury), arbitration hearing, or other alternative method of dispute resolution.

Commentary to LR 16.5

The Court encourages the parties to make good faith efforts at settlement before requesting judicial intervention. A party may request a specific Judge to assist in the settlement efforts. The availability of a requested judge - or any judge - can only be determined on a case - by - case basis. Parties should also bear in mind that case management and settlement policies may differ among Judges. Some Judges initiate settlement possibilities, some wait for the lawyers to raise the issue, and some have adopted the policy that, save for exceptional circumstances, parties should first use the court's volunteer mediation panel or other alternative dispute resolution resources before relying upon settlement judges.

Counsel should seek guidance from the chambers of the judge to whom the case is assigned if settlement efforts could affect the case schedule or any deadline set in the case.

LR 16.6 Proposed Pretrial Order

- (a) **Filing Requirements:** The parties may stipulate, subject to the approval of the court, or the court may order, that no pretrial order need be filed. Otherwise, the parties will prepare and sign a proposed pretrial order to be lodged with the court on or before the date ordered by the court.
- (b) **Content Requirements:** (See Appendix of Forms #12 and #13). If there is no court-approved stipulation or order dispensing with the need for a pretrial order, the parties will prepare a proposed order to frame the issues for trial. At a minimum, the pretrial order must contain:
 - (1) A concise statement of the nature of the action, including whether trial will be by jury and whether the parties have consented to trial by a magistrate judge.
 - (2) A concise statement of each basis for federal jurisdiction and the facts supporting or disputing jurisdiction.
 - (3) All agreed facts; with an asterisk (*) by those where relevance is disputed.

- (4) A statement of each claim and defense to that claim with the contentions of the parties. Contentions will not recite the evidence to be offered at trial but will be sufficient to frame the issues presented by each claim and defense.
 - (5) Other legal issues not stated under either claims or defenses and designating those appropriate for decision before trial.
 - (6) A statement indicating proposed amendments to the pleadings, if any.
 - (7) The same format should be used in the order for any counterclaim or cross-claims, followed by any affirmative defenses to each of those claims.
- (c) **Service and Lodging of Pretrial Order:** Unless modified by the Court, the time for service and lodging of the pretrial order will be as follows:
- (1) The plaintiff will, at least thirty (30) days before the lodging date, prepare and serve on all parties a proposed pretrial order.
 - (2) Within fifteen (15) days after service of that proposed pretrial order, each other party will serve on all parties the objections, additions, and changes such party believes should be made to the plaintiff's proposed pretrial order.
 - (3) All areas of disagreement must be shown in the proposed pretrial order, but the parties will make every effort to resolve such disagreements.
 - (4) The proposed pretrial order must be signed by the parties, and the plaintiff must lodge it with the Court.
- (d) **Effect of Pretrial Order:** The pretrial order amends the pleadings, and it, and any later order of the court will control the subsequent course of action or proceedings as provided in Fed. R. Civ. P. 16.

Amendment History to LR 16	
June 1, 2002	
LR 16.5	New section (b) added. Original rule re-numbered to (a).
LR 16.7(a)	"preliminary" deleted from first sentence "...preliminary pretrial conference..."
LR 16.7(c)	"preliminary" deleted from first sentence "...preliminary pretrial conference..."
February 10, 2003	
LR 16.5	Commentary added
June 1, 2006	
Generally	Added references to Appendix of Forms. Updated cross references throughout. Numeric formats modified; i.e. "ten (10)".
LR 16.1(a)	Text from subsection (b) moved to this section with subsequent subsections re-lettered.
LR 16.1(b)	The words "..Consent to Jurisdiction by a U.S. ..." added. The word "consent" stricken
LR 16.1(d)	The words "..a scheduling order as appropriate for the case..." added. The words " Discovery and Pretrial Scheduling Order" deleted.
LR 16.2	Heading modified
LR 16.2(a)	The word "request" substituted for "schedule". The phrase beginning with ".." and the assigned judge..." deleted.
LR 16.2(b)	The words "initial court " stricken and replaced with "Rule 16(b) scheduling and planning.. The words "discovery, Magistrate Judge consent" stricken and replaced with "of the issues enumerated".
LR 16.2(c)	Commentary deleted
LR 16.2(d)	Subsection (d) added with subsequent sections re-lettered
LR 16.3	The word "Imposed" substituted for the word "Established" in the heading.
LR 16.4(h)(1)(b)	The word "including" substituted for the words "to include".
LR 16.4(h)(2)	The words "he or she"" substituted for the word "they".
LR 16.4(j)	The phrase "...provided by the clerk.." stricken The word "calendar" stricken
LR 16.6(c)(3)	The word "All.." substituted for "If there are..." Remainder of sentence modified to make it grammatically correct
LR 16.6(c)(4)	"will" changed to "must" throughout
LR 16.7	Deleted

LR 23 CLASS ACTIONS (See Fed. R. Civ. P. 23)

LR 23.1 Document Caption Requirements (See LR 10.2)

The words **CLASS ACTION ALLEGATION** must be included on the first line of any document proposing or seeking to maintain a class action, e.g., :

CLASS ACTION ALLEGATION COMPLAINT
Product Liability Action (28 U.S.C. § 1332)
Demand for Jury Trial

LR 23.2 Pleading Requirements

The filing party must also explain in separately titled and numbered paragraphs within the body of the document:

- (a) How this action meets the prerequisites mandated by Fed. R. Civ. P. 23(a);
- (b) How this action can be maintained as a class action under the provisions of Fed. R. Civ. P. 23(b);
- (c) The basis upon which the party claims either to be an adequate representative of the class; or that the class is comprised of defendants, and that those individuals named as defendants are adequate representatives of the proposed class; and
- (d) The question(s) of law and fact alleged to be common to the class.

Amendment History to LR 23	
June 1, 2002	
LR 23.1	Filed by line removed from example
June 1, 2006	
LR 23.1	Format example modified

LR 26 GENERAL DISCOVERY PROVISIONS (See Fed. R. Civ. P. 26)

LR 26.1 Initial Conference of Counsel for Discovery Planning (See Fed. R. Civ. P. 26(f))
Unless exempted under Fed. R. Civ. P. 26(a)(1)(E) or otherwise ordered by the Court:

- (a) The parties shall hold a Fed. R. Civ. P. 26(f) initial conference of counsel for discovery planning within thirty (30) days after all defendants have been served. Counsel for plaintiff(s), upon learning the identity of counsel for defendant(s), shall initiate communications with counsel for defendant(s). All counsel shall then confer as required by Fed. R. Civ. P. 26(f).
- (b) No written report of the initial conference of counsel for discovery planning is required (other than the form that is referred to in LR 26.2), but the parties shall be prepared to report orally to the Court as to their discovery plan.
- (c) The parties may seek discovery once the initial conference of counsel for discovery planning contemplated by this local rule has occurred.

LR 26.2 Initial Disclosures (See Fed. R. Civ. P. 26(a)(1))
Unless otherwise ordered by the Court, parties who agree to forgo the disclosures required by Fed. R. Civ. P. 26(a)(1) can do so using the form issued at the time of filing and found in the Appendix of Forms # 15.

Commentary to LR 16.2, LR 26.1, and LR 26.2
The US District Court for Oregon encourages, but does not require, parties to opt out of the initial disclosures and to proceed with discovery without delay once they have held the Fed. R. Civ. P. 26(f) initial conference of counsel for discovery planning. This tends to prevent a discovery lull for several weeks at the beginning of each case and to prevent satellite disputes about the initial disclosures.

LR 26.3 Pretrial Disclosures (See Fed. R. Civ. P. 26(a)(3))
Unless otherwise directed by the Court, the time for pretrial disclosures will be set at a Rule 16 conference.

LR 26.4 Expert Testimony (See Fed. R. Civ. P. 26(a)(2))

- (a) **Disclosure Requirements:** Unless otherwise directed by the Court, the time for disclosure of experts under Fed. R. Civ. P. 26(a)(2) and discovery regarding experts generally, will be set at a Rule 16 conference.
- (b) **Non-Filing Requirements** (See Fed. R. Civ. P. 26(a)(2), LR 5.2, and LR 16).

LR 26.5 Discovery Motions (See Fed. R. Civ. P. 26 and LR 37)

- (a) **Document Title:** (See LR 10.2). The document title shall substantially comply with the following format:

PLAINTIFF JOHN SMITH'S MOTION TO COMPEL

DEFENDANT ABC CORPORATION'S RESPONSE
TO PLAINTIFF JOHN SMITH'S MOTION TO COMPEL PRODUCTION

- (b) **Page Limits:** Without prior Court approval, memoranda must be ten (10) pages or less (exclusive of exhibits).
- (c) **No Replies:** Unless otherwise directed by the Court, a movant may not file a reply supporting a discovery motion.
- (d) **Motions to Compel** (See LR 37).
- (e) **Calendaring** (See LR 7.1(d) and (e))
- (f) **Resolving Discovery Disputes by Telephone Conference:** Parties encountering a discovery problem may telephone the assigned judge to set up a telephone conference to help resolve the issue(s). If the assigned judge is unavailable, the Court will attempt to have the telephone conference handled by another judge.

LR 26.6**Motions for Protective Orders** (See Fed. R. Civ. P. 26(c), LR 3.8, and LR 3.9)

A party or person asserting there is good cause for the Court to make an order that would limit access to discovery materials not filed with the Court, or would authorize a party or person to file any materials with the Court under seal, must show with respect to each particular material or category of materials that specific prejudice or harm will result if no order is granted. The showing must be sufficiently detailed to permit the Court in its good cause examination to identify specific factors supporting entry of the order sought. Where the order sought would authorize a party to file materials under seal, the showing also must articulate why, as an alternative to filing under seal, the information sought to be protected could not be redacted. Broad allegations of harm, unsubstantiated by specific examples or articulated reasoning does not satisfy the requirements of this rule. The showing must be made even if the other party stipulates to the entry of the order.

Practice Tip

Parties or persons applying for protective orders or orders authorizing the party or person to file materials under seal should review *Foltz v State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122 (9th Cir. 2003); *Phillips v. General Motors Corp.*, 307 F.3d 1206 (9th Cir. 2002); *Beckman Industries, Inc. v International Ins. Co.*, 966 F.2d 470 (9th Cir. 1992); *Gisby v Les Schwab Tire Center of Oregon, Inc.*, 2004 WL 848191 (D. Or. 2004); and *Fischer v City of Portland*, 2003 WL 23537981 (D. Or. 2003).

LR 26.7**Waiver of Objections**

- (a) **Objections Must be Timely:** Failure to object to a discovery request within the time permitted by the Federal Rules of Civil Procedure, or within the time to which the parties have agreed, constitutes a waiver of any objection.
- (b) **Description Within Reasonable Time:** By making a timely objection, a party may preserve its privilege or its protection against production of attorney work product or trial preparation material without simultaneously providing a "privilege log" or a description of the claims of privilege or work product required by Fed R. Civ. P. 26(b)(5). However, such a "privilege log" or description of the claims of privilege or work product required by Fed. R. Civ. P. 26(b)(5) shall be provided within a reasonable time after service of timely objections to a discovery request.

Amendment History to LR 26	
December 1, 2000	
LR 26.1 & LR 26.2	Revised and amended to conform with amendments to F.R.Civ.P. 26.
June 1, 2002	
LR 26.4(b)	Cross Reference to LR5.2 updated.
LR 26.5(a)	Cross Reference to LR 10.2 added.
LR 26.5(c)	Cross Reference to LR 7.1 removed. The word "may" substituted for "must".
June 1, 2006	
Generally	Cross references updated. Appendix of Forms numbers updated. Format examples modified.
LR 26.2(b)	Text and Practice Tip deleted. Commentary added.
LR 26.3	The phrase ".preliminary pretrial.." deleted; " and the words "Rule 16" added.
LR 26.4(a)	The words "the Rule 16" substituted for the words "a pretrial".
LR 26.5(a)	"The document.... " sentence added.
LR 26.5(b)	The word "Briefs" deleted and replaced with the word "memoranda"
LR 26.5(d)	New Rule with subsequent sections re-lettered.
LR 26.5(f)	Text of LR 16.2 moved to this rule.
LR 26.6	New rule and Practice Tip.
LR 26.7	New Rule in light of Burlington Norther & Santa Fe Ry. Co. v U.S. Dist. Court for Dist. of Montana. 408 F3d 1142 (9 th Cir. 2005)

LR 27 DEPOSITIONS – Before Action or Pending Appeal (See Fed. R. Civ. P. 27)

LR 27.1 Before Action (See Fed. R. Civ. P. 27(a))

(a) Initial Filing Requirements (See LR 79.2)

- (1)** A party seeking to perpetuate testimony must file a verified petition and proposed order with the clerk's office.
- (2)** Upon payment of the required filing fee, the clerk's office will open a miscellaneous case and refer the petition and proposed order to the duty magistrate judge for calendaring and disposition.

(b) Format Requirements (See LR 10)

LR 27.2 Pending Appeal (See Fed. R. Civ. P. 27(b)):
Unless otherwise requested by a party, motions to perpetuate testimony pending an appeal will be processed as a discovery motion pursuant to LR 26.5.

LR 27.3 Relationship to LR 30
The requirements of LR 30 apply to depositions conducted under LR 27.

LR 29 STIPULATIONS (See Fed. R. Civ. P. 29)

LR 29.1 Non-Permissible Stipulations

Parties may not stipulate to extend any:

- (a) Deadline established by the case scheduling order.
- (b) Filing deadline established by the Court, the Federal Rules of Civil Procedure, or these local rules;
- (c) Court-scheduled conference.
- (d) Pretrial order lodging date.
- (e) Trial date.

Amendment History to LR 29	
June 1, 2006	
LR 29.1(b)	New rule with subsequent sections re-lettered
LR 29.1(c)	The words "telephone" and "date" stricken.
LR 29.2	Deleted.

LR 30 DEPOSITIONS (See Fed. R. Civ. P. 30)

LR 30.1 Depositions — Generally (See Fed. R. Civ. P. 30)

- (a) **Not Filed With the Court** (See LR 5.2): Unless directed by the , depositions will not be filed with the , instead they will be maintained by counsel and made available to parties in accordance with Fed. R. Civ. P. 30(b). Depositions presented for filing without approval will be returned to the offering party.
- (b) **Use of Non-Filed Depositions:** This rule does not preclude the use of deposition transcripts as exhibits or evidence in support of a motion, or for introduction and use at trial.
- (c) **Availability of Copies to Non-Parties:** With leave of during the pendency of a civil action, any person may obtain a copy of a deposition not on file provided they:
 - (1) Serve notice of their request and proposed order on all parties;
 - (2) Receive approval; and
 - (3) Pay the cost for a copy of the deposition.

LR 30.2 Notice of Deposition

Except for good cause, counsel will not serve a notice of deposition until they have made a good faith effort to confer with all counsel regarding a mutually convenient date, time, and place for the deposition.

LR 30.3 Conduct of Counsel (See Fed. R. Civ. P. 30(c) and (d))

Counsel to a deposition will not engage in any conduct that would not otherwise be allowed in the presence of a judge.

LR 30.4 Objections (See Fed. R. Civ. P. 30(c) and (d)(1))

There should be no argument in response to an objection or an instruction not to answer.

LR 30.5 Pending Questions

If a question is pending, it must be answered before a recess is taken unless the question involves a matter of privacy right; privilege; or an area protected by the constitution, statute, or work product.

LR 30.6 Motions Relating to Depositions (See Fed. R. Civ. P. 30(d)(3))

- (a) If the parties have a dispute which may be resolved with assistance from the , or if unreasonable or bad faith deposition techniques are being used, the deposition may be suspended so that a motion may be made immediately and heard by an available judge, or the parties may hold a telephone conference pursuant to LR 16.2(c).
- (b) Alternatively, a written motion relating to the deposition may be filed after a transcript is available.
- (c) The court may impose costs, including attorney fees, on any person responsible for unreasonable or bad faith deposition techniques or behavior.

LR 30.7 Motions to Compel (See Fed. R. Civ. P. 37(a) and LR 37)

LR 30.8 Deposition of Experts

Depositions of experts may be taken only pursuant to a written stipulation of the parties, or as scheduled by the .

LR 33 INTERROGATORIES (See Fed. R. Civ. P. 33)

LR 33.1 Interrogatories — Generally (See Fed. R. Civ. P. 33)

- (a) **Not Filed With the Court:** (See LR 5.2). Unless directed by the court, interrogatories, objections, and answers will not be filed with the Court. Instead they will be maintained by counsel and made available to parties upon request. Interrogatories presented for filing without Court approval will be returned to the offering party. Interrogatories shall be served pursuant to Fed. R. Civ. P. 5 and by e-mail in Word or WordPerfect format pursuant to LR 5.2(b).
- (b) **Use of Non-Filed Interrogatories:** This rule does not preclude the use of interrogatories and answers as exhibits or evidence in support of a motion or at trial.
- (c) **Definitions:** Each interrogatory must state in concise language the information requested. In no case may an interrogatory refer to a definition not contained within the interrogatory or the preamble. Only terms actually used in a set of interrogatories may be defined.
- (d) **Prohibited Form of Interrogatories:** Broad general interrogatories, such as those which ask an opposing party to "*state all facts on which a contention is based*" or to "*apply law to facts*", are not permitted.

LR 33.2 Answers to Interrogatories

- (a) Answers and objections to interrogatories must set forth each question in full before each answer or objection. Each objection must be followed by a statement of reasons.
- (b) When an objection is made to part of an interrogatory, the remainder of the interrogatory must be answered at the time the objection is made, or within the period of any extension of time to answer, whichever is later.

LR 33.3 Waiver of Objection (See LR 26.7)**LR 33.4 Motions to Compel** (See Fed. R. Civ. P. 33(b)(5) and LR 37)

- (a) **Requirements:** Motions to compel must set forth only the pertinent interrogatory question, objection, and legal arguments.
- (b) **Certification Requirements:** The Court will deny any motion to compel that does not contain the certification requirements mandated by LR 7.1(a).

LR 33.5 Time Limit to Comply With Order Compelling Answers (See LR 37.2)

Amendment History to LR 33	
June 1, 2006	
Generally	Cross references added and updated.
LR 33.1(a)	The first sentence divided into two sentences. "Interrogatories shall be served...." added.
LR 33.1(b)	The words "for introduction" stricken.
LR 33.3	Re-numbered to 33.4.
LR 33.4	Re-numbered to 33.3 and text deleted.
LR 33.5	The words "..With Order Compelling Answers" added to the heading..

LR 34 REQUESTS FOR PRODUCTION (See Fed. R. Civ. P. 34)

LR 34.1 Requests for Production — Generally (See Fed. R. Civ. P. 34)

- (a) **Not Filed With the Court:** (See LR 5.2). Unless directed by the Court, requests for production will not be filed with the Court. Instead they will be maintained by counsel and made available to parties upon request. Requests for production presented for filing without Court approval will be returned to the offering party. Requests for production shall be served pursuant to Fed. R. Civ. P. 5 and by e-mail in Word or WordPerfect format pursuant to LR 5.2(b).
- (b) **Use of Non-Filed Requests:** This rule does not preclude the use of requests for production and responses as exhibits or evidence in support of a motion, or at trial, subject to appropriate rules of evidence.
- (c) **Definitions:** Each request must state in concise language the information requested. In no case may a request refer to a definition not contained within the request or the preamble. Only terms actually used in the request for production may be defined.

LR 34.2 Responses and Objections (See Fed. R. Civ. P. 34(b))

- (a) Responses must set forth each request in full before each response or objection. Each objection must be followed by a statement of reasons.
- (b) When an objection is made to part of a request for production, a response must be made to the remainder of the request at the time the objection is made, or within the period of any extension of time to respond, whichever is later.

LR 34.3 Waiver of Objections (See LR 26.7)**LR 34.4 Motions to Compel** (See Fed. R. Civ. P. 37(a)(2)(B) and LR 37)**LR 34.5 Time Limits to Comply With Order Compelling Production** (See LR 37.2)

Amendment History to LR 334	
June 1, 2006	
LR 34.1(a)	The first sentence divided into two sentences. The sentence "Requests for production shall be served....." added.
LR 34.1(b)	The words "for introduction" stricken.
LR 34.3	Cross-reference to LR 26.7 added and text deleted.
LR 34.5	The words "With Order Compelling Production" added to heading. Cross-reference updated.

LR 36 REQUESTS FOR ADMISSION (See Fed. R. Civ. P. 36)

LR 36.1 Requests for Admission — Generally (See Fed. R. Civ. P. 36)

- (a) **Not Filed With the Court** (See LR 5.2): Unless directed by the Court, requests for admission will not be filed with the Court. Instead they will be maintained by counsel and made available to parties upon request. Requests for admission presented for filing without Court approval will be returned to the offering party. Requests for admission shall be served pursuant to Fed. R. Civ. P. 5 and by e-mail in Word or WordPerfect format pursuant to LR 5.2(b).
- (b) **Use of Non-Filed Requests:** (See Fed. R. Civ. P. 37(c)). This rule does not preclude the use of requests for admission and responses as exhibits or evidence in support of a motion or at trial.
- (c) **Definitions:** Each request must state in concise language the admission requested. In no case may a request for admission refer to a definition not contained within the request for admission or preamble. Only terms actually used in the request for admission may be defined.

LR 36.2 Response or Objections (See Fed. R. Civ. P. 36(a))
Every response, denial, or objection must set forth each request in full, followed by the admission, denial, or objection. Each objection must be followed by a statement of reasons.

LR 36.3 Waiver of Objections (See LR 26.7)

LR 36.4 Motions to Compel (See LR 37)

LR 36.5 Time Limits to Comply With Order Compelling Response to Requests for Admission (See LR 37.2)

Amendment History to LR 36	
June 1, 2006	
LR 36.1(a)	The first sentence divided into two sentences. "Requests for admissions shall be served....." added
LR 36.1(b)	The words "for introduction" stricken
LR 36.3	New Rule adding Waiver of Objections and Cross Reference to LR 26.7. Motions to Compel re-numbered to LR 36.4
LR 36.5	The words "With Order Compelling Response to Request for Admissions" added to heading

LR 37 MOTIONS TO COMPEL (See Fed. R. Civ. P. 37)

LR 37.1 Motion Requirements (See LR 7.3)

Motions to compel must comply with LR 26.5 and set forth only the pertinent interrogatory, question, request, response, and/or objection, together with the legal arguments of the party.

LR 37.2 Time Limits

Unless otherwise directed by the Court, the party against whom an order to compel has been entered must comply with the order within eleven (11) days after the date of entry of the order.

Amendment History to LR 37	
June 1, 2006	
LR 37.1	Rule deleted as already addressed in LR 7.1(a). Subsequent rules re-numbered.
LR 37.1	Cross reference to LR 7.3 added. The words "... comply with LR 26.5..." added. The words "...in conformity..." deleted.
LR 37.2	The words "eleven (11)" substituted for "seven". The phrase "the date of entry..." substituted for "receipt"

LR 38 JURY TRIAL OF RIGHT (See Fed. R. Civ. P. 38)

LR 38.1 Demand for Jury Trial (See Fed. R. Civ. P. 38)

- (a) **Document Title Requirements:** The words **DEMAND FOR JURY TRIAL** must be included on the last line of the document title of any jury demand instrument filed pursuant to Fed. R. Civ. P. 38(b), e.g., :

ANSWER by ABC Corporation, Inc.
and **DEMAND FOR JURY TRIAL**

- (b) **Pleading Requirements:** In addition, the **DEMAND FOR JURY TRIAL** should be asserted in the last paragraph of the document.

LR 38.2 Waiver of Jury Demand (See Fed. R. Civ. P. 38(d))

LR 38.3 Number of Jurors (See LR 48.1)

LR 38.4 Selection of Jurors (See LR 47)

LR 38.5 Juror Challenges (See 28 U.S.C. § 1870 and LR 47)

LR 38.6 Jury Instructions (See LR 51)

LR 41 DISMISSAL OF ACTION (See Fed. R. Civ. P. 41)

LR 41.1 Voluntary Settlement – Notice of Settlement (See LR 47.1)

- (a) **Notice of Settlement:** Immediately upon reaching substantial agreement about the terms and conditions of a settlement, plaintiff's counsel must telephone the courtroom deputy clerk for the assigned judge to notify the Court of the impending settlement.
- (b) **Order of Dismissal:** Upon notice of settlement pursuant to LR 41.1(a) or LR 47.1, the Court will direct the clerk to dismiss the case with prejudice and without costs, and with rights to any party to reopen the case in the event of a failure to consummate the final settlement agreement within sixty (60) days.

LR 41.2 Involuntary Dismissal (See Fed. R. Civ. P. 41(b))

- (a) **Order to Show Cause:** The Court may notice for hearing any action or proceeding which does not appear to be diligently prosecuted.
- (b) **Party Statement Requirements:** Not later than five (5) days prior to the hearing date, each party will file and serve a statement describing:
 - (1) The status of the action or proceedings to date; and
 - (2) Whether good cause exists to dismiss the action or proceeding for failure to prosecute.
- (c) **Filing Motion to Dismiss:** Nothing in this rule will preclude any party from filing a motion to dismiss an action or proceeding for failure to prosecute under Fed. R. Civ. P. 41.

LR 42 COMPLEX OR RELATED CASES (See Fed. R. Civ. P. 42)

LR 42.1 Reference to The Manual for Complex Litigation

Unless otherwise directed by the Court, consolidation and case management of complex or related cases will usually be governed by the principals set forth in *The Manual for Complex Litigation, Third*.

Practice Tip	
1.	This manual is published by The Federal Judicial Center and may be purchased from the U.S. Government Printing Office: 1995 — 395 — 123 / 30538.
2.	The manual is also available on-line at www.fjc.gov/ . Click on Publications.

LR 42.2 Responsibilities of Counsel

It is the responsibility of counsel to identify complex or related cases and to bring the matter promptly to the attention of the Court.

LR 42.3 Notice of Complex Case

Any party may suggest the need for adopting special procedures to help manage complex, protracted, or otherwise potentially difficult cases. Where appropriate, such a suggestion may be raised by letter served on all parties and delivered to the Court, or during any court conference or hearing.

LR 42.4 Related Cases

For good cause shown, any party may file and serve a motion to consolidate, or oppose consolidation, of related cases. When a party seeks or opposes consolidation of two or more cases, the motion or opposition must be filed in each case to be consolidated. Each motion or opposition must include:

- (a) The case number, case title, and assigned judge of every related case pending in the District of Oregon.
- (b) The case number, case title, assigned judge, and court location of every other related case pending in any other state or federal court.
- (c) The common question of law or fact at issue in each case.
- (d) The status in each case of all pending motions, Court imposed deadlines, case management schedules, trial dates, etc..
- (e) The reason that the cases should be reassigned and managed by a single judicial officer.
- (f) The position of the other parties, if known.

- (g) The scope of consolidation requested, e.g., for hearing on a motion; for pretrial and discovery; or for all further proceedings, including trial.

LR 42.5 Document Caption Requirements After Consolidation

- (a) **Designation of Lead Case:** Unless otherwise directed by the Court, the earliest filed consolidated case will be designated as the *lead case* for administrative control and case management purposes.
- (b) **Identifying Lead Case Information on Consolidated Case Papers:** Unless otherwise directed by the Court, parties will continue to file pleadings, motions and other case papers in their individual cases; however, the case number of the lead case and the words **RELATED CASE** must be included in the document title of every document.

Practice Tip
For example, if a party files a motion in 04-CV-1111-RE, and that case is related and consolidated with 04-CV-999-RE — then the document title for the motion in 04-CV-1111-RE would read beneath the heading:
<p style="text-align: center;">Related Case to 04-CV-999-RE (Lead Case) PLAINTIFF JOHN SMITH'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS</p>

- (c) **Procedural Case Management Order:** Once a case is consolidated by the Court, the assigned judge will enter a new case management order to control discovery, submission of pleadings and documents, and other pretrial and trial related matters.

Amendment History to LR 42	
June 1, 2002	
LR 42.5(c)	"....submission of pleadings and documents" added.
June 1, 2006	
LR 42.1	"This manual is published..." stricken and moved to new Practice Tip. Practice Tip added.
LR 42.4(g)	The word "etc." stricken.
LR 42.5(b)	Practice Tip examples modified

LR 47 SELECTION OF JURORS (See Fed. R. Civ. P. 47)

LR 47.1 Notification of Settlement Before Trial

- (a) **Plaintiff's Duty to Notify the Court:** Counsel for the parties must immediately notify the trial judge's courtroom deputy clerk and the trial judge whenever a scheduled jury or court trial is settled by the parties.
- (b) **Assessment of Juror Costs for Late Notices:** If the Court finds that the parties failed to notify the trial judge's courtroom deputy clerk and the trial judge of the settlement not later than 3:00 p.m. of the business day preceding the day the trial is to commence, and that the parties had the opportunity to do so, the Court may assess the costs of summoning and paying prospective jurors on one or more of the parties.

LR 47.2 Selection of Jurors

- (a) **Examination of Jurors — Generally:** The Court will conduct the voir dire examination of jurors. The matter of attorney voir dire can be addressed with the trial judge at the preliminary pretrial conference.
- (b) **Supplemental Questions by the Parties:** Counsel may submit and serve any questions which they desire to be propounded to the jurors at such time as the Court orders. If there is no such order, questions must be submitted at least three (3) days before trial.

LR 47.3 Challenges for Cause (See Fed. R. Civ. P. 47(c))
Challenges to excuse a juror for cause will be taken orally.

LR 47.4 Peremptory Challenges (See Fed. R. Civ. P. 47(b))

(a) **Numbers of Peremptory Challenges** (See 28 U.S.C. § 1870): The trial judge will establish the number of peremptory challenges at the final pretrial conference.

(b) **Procedures for Exercising Peremptory Challenges:** Unless otherwise directed by the Court, the parties will exercise their peremptory challenges in the following manner:

Step (1) Prior to the commencement of the trial, the courtroom deputy clerk will prepare a seating chart — or a numbered list — showing the names and seated positions of the jurors to be examined.

Step (2) When the time comes to exercise peremptory challenges, the clerk will circulate the seating chart between the parties, starting with the plaintiff.

Step (3) Peremptory challenges will be exercised one-at-a-time, starting with the plaintiff, and alternating between the parties until completed.

Step (4) A party may exercise a peremptory challenge by circling the juror's name on the seating chart, and marking the chart with the number of the challenge, e.g., P-1, D-1, and so forth.

Step (5) If a party elects to pass a peremptory challenge, the decision to pass will be counted as though the challenge had been exercised, however, it will not constitute a waiver of subsequent challenges unless there are no subsequent challenges by any other party.

Amendment History to LR 47	
June 1, 2002	
LR 47.2(b)	"... and serve" was added.

LR 48 JURORS and PARTICIPATION IN THE VERDICT (See Fed. R. Civ. P. 48)

LR 48.1 Number of Jurors (See Fed. R. Civ. P. 48)
The Court will fix the number of jurors in a civil case.

LR 48.2 Polling the Jury
Immediately after the reading of the jury's verdict, a party may request that the Court poll the jury.

LR 48.3 No Communications With Jurors -- Before, and During, and After Trial
Except as authorized by the Court, attorneys, parties, witnesses, or court employees must not initiate contact with any juror concerning any case which that juror was sworn to try.

Amendment History to LR 48	
June 1, 2006	
LR 48.3	Heading modified to add the word "No.." and " .. After Trial Subsection (a) heading deleted. The "authorized" substituted for the phrase ".. necessary during trial or as ordered..". The word "attorneys" added. Reference to Oregon State Bar Disciplinary Rule DR 7-108 deleted
LR 48.3(b)	Rule deleted.
LR 48.4	Rule deleted.

LR 51 INSTRUCTIONS TO THE JURY (See Fed. R. Civ. P. 51)

LR 51.1 Proposed Jury Instructions

- (a) **Scope of Party Submissions:** The trial judge will discuss standard jury instructions common to all cases either at the final pretrial conference or during a conference with counsel during trial. Counsel need not submit standard jury instructions and need only submit proposed jury instructions specific to the issues in the case.

- (b) **Application of Model or Uniform Jury Instructions:** In diversity cases, the Oregon State Bar Uniform Civil Jury Instructions should be used. In other cases, and unless otherwise directed by the Court, the Ninth Circuit Model Jury Instructions should be used.

- (c) **Number of Instructions:** If there are more than ten (10) instructions, attach an index.

- (d) **Format Requirements:**
 - (1) Each instruction must be on a separate sheet of paper.

 - (2) The complete set of instructions should be submitted on a virus free 3.5 inch diskette or CD Rom using WordPerfect or ASCII text format. The trial judge may also direct that these documents be electronically mailed to chambers.

 - (3) Each instruction must embrace only one subject, and must be numbered consecutively using the model or uniform jury instruction numbers where applicable.

 - (4) Each instruction must be brief, impartial, understandable, and free from argument. The principle stated in one instruction must not be repeated in any other instruction.

 - (5) Except when citing to a model or uniform jury instruction, the text of each instruction must be set out in full. In the case of model rules, citation to the model rule number is sufficient.

 - (6) Each instruction must contain citations of authority in support of the principle of law stated in the instruction.

Amendment History to LR 51	
June 1, 2002	
LR 51	Generally: Cross references added or updated.
LR 51.1(a)	"Unless otherwise ordered by the Court...." added.
LR 51.1(e)(2)	CD Rom format added.
June 1, 2006	
LR 51.1	Cross reference to LR 100.10 deleted.
LR 51.1(a)	Deleted and subsequent sections re-lettered. New (a) revised to clarify counsels' requirements for submitting instructions
LR 51.1(b)	Text of rule re-organized.
LR 51.1(c)	Numeric format modified; i.e. "ten (10)".
LR 51.1(d)(2)	"The trial Judge may.." added. This sentence was moved from LR 100.10(c).
LR 51.2	Deleted.

LR 52 FINDINGS BY THE COURT

LR 52.1 Reminders to the Court (See LR 83.13)

Amendment History to LR 52	
June 1, 2002	
LR 52.1	Cross Reference corrected.

LR 54 BILL OF COSTS and ATTORNEY FEES (See Fed. R. Civ. P. 54)

LR 54.1 Costs — Other than Attorney Fees (See Fed. R. Civ. P. 54(d)(1))

- (a) **Filing Requirements:** (See 28 U.S.C. §§ 1920-24)
 - (1) **Bill of Costs:** Not later than fourteen (14) days after entry of judgment or receipt and docketing of the appellate court's mandate, the prevailing party may file and serve on all parties a Bill of Costs that provides detailed itemization of all claimed costs. The prevailing party must file an affidavit and appropriate documentation.
 - (2) **Verification:** The Bill of Costs must be verified as required by 28 U.S.C. § 1924.
- (b) **Objections:** Not later than eleven (11) days after service of the Bill of Costs, a party objecting to any item of cost must file and serve objections. Objections should be accompanied by an affidavit and supporting legal memorandum in support of the party's position. A response, if any, must be filed not later than eleven (11) days after service of the objections.
- (c) **Legal Memoranda and Page Limitations:** Except as authorized in advance by the Court, all legal memoranda in support of, or in opposition to, the Bill of Costs are limited to ten (10) pages.

LR 54.2 Order Taxing Costs

- (a) **Authority to Tax Costs:** Unless otherwise directed by the Court, the clerk may tax costs provided in Fed. R. Civ. P. 54(d)(1), one day after the time limits established in LR 54.1 have expired.
- (b) **Objections to the Clerk's Order Taxing Costs:** Notwithstanding Fed. R. Civ. P. 54(d)(1), not later than eleven (11) days after filing of the clerk's order taxing costs, any party may file and serve written objections to the clerk's order. Unless requested by the Court, there will be no further submissions, and review by the Court will be determined on the same papers and evidence submitted to the clerk.
- (c) **No Oral Argument:** Unless requested by the Court, costs will be taxed on the written submissions of the parties and without oral argument.

LR 54.3**Motion for Award of Attorney Fees** (See Fed. R. Civ. P. 54(d)(2))

- (a) **Motion Requirements:** (See Fed. R. Civ. P. 54(d)(2)). In addition to the requirements of Fed. R. Civ. P. 54(d)(2)(B), any motion for attorney fees must set forth the relevant facts and arguments of the moving party, along with all supporting authorities and affidavits.

Practice Tip to LR 54.3
<p>Reasonable Hourly Rate</p> <p>As for the reasonable hourly rate, the Court has determined that it will use the most recent Oregon State Bar Economic Survey as its initial benchmark. A current edition of the Economic Survey is available from the Oregon State Bar. Attorneys may argue for higher rates based on inflation, specialty, or other factors. However, the Court requests that fee petitions address the Economic Survey and provide justification for requested hourly rates higher than reported by the Survey. Practitioners are also referred to the document "Message From the Court Regarding Attorney Fee Petitions" found on the court's website: www.ord.uscourts.gov</p>

- (b) **Objections or Other Responses:** Objections and responsive materials are due not later than eleven (11) days after service of the motion. Replies, if any, must be filed not later than eleven (11) days after service of the objection.
- (c) **Hearing:** Unless otherwise directed by the Court, any hearing on the motion for attorneys' fees will be heard by the Court without:
- (1) Segregating the issue of liability for attorneys' fees from the issue of the amount of fees;
 - (2) Live testimony and/or cross-examination of witnesses;
 - (3) Extending the time for appeal of the underlying judgment under Fed. R. Civ. P. 58; or
 - (4) The parties submitting proposed findings and conclusions, and/or the parties objecting to proposed findings and conclusions issued by the Court.
- (d) **Other Options:** (See Fed. R. Civ. P. 54(d)). The Court may issue other appropriate orders relating to the motion for attorneys' fees, including a decision to refer the motion and objections to mediation or other dispute resolution process.
- (e) **Legal Memoranda and Page Limitations:** Except as authorized in advance by the Court, all legal memoranda in support of, or in opposition to, motions for attorney fees are limited to ten (10) pages.

Amendment History to LR 54	
June 1, 2000	
LR 54.1(a)(1)(A)	The phrase "or receipt and docketing of the appellate Court's mandate," has been added to clarify the filing deadlines.
June 1, 2002	
LR 54.4(b)	The sentence beginning "Unless otherwise directed...." was added.
June 1, 2006	
LR 54	"Cost Bills" changed to "Bill of Costs" throughout. Numeric format modified; i.e. "ten (10)".
LR 54.1(a)(1)	Subsection (B) deleted and merged into LR54.1(a)(1). "The prevailing party..." sentence moved from (B) to LR 54.1(a)(1).
LR 54.1(b)	The word "supporting" added in second sentence. Permission to file a response added.
LR 54.2	Text of LR 54.3 moved to new (b) and subsequent sections re-lettered Subsection (c) "Order Taxing Costs" deleted.
LR 54.3	Text moved to LR 54.2(b) with subsequent sections re-numbered Practice tip added to LR 54.3(a) Subsection (b) text modified to permit a reply to the objection.

LR 55 DEFAULT (See Fed. R. Civ. P. 55)

LR 55.1 Conference Required Prior to Filing for Default

If the party against whom an order or judgment of default pursuant to Fed. R. Civ. P. 55 is sought has filed an appearance in the action, or has provided written notice of intent to file an appearance to the party seeking an order or judgment of default, then LR 7.1 and LR 83.8 apply, and the parties must make a good faith effort to confer before a motion or request for default is filed.

Amendment History to LR 55	
June 1, 2006	
LR 55.1	New Rule.

LR 56 SUMMARY JUDGMENT (See Fed. R. Civ. P. 56)

LR 56.1 Motion for Summary Judgment (See Fed. R. Civ. P. 56)

- (a) **Motion Requirements:** A motion for summary judgment must be accompanied by the following two separately filed documents:
 - (1) **Memorandum in Support:** The supporting memorandum must address applicable law and explain why there are no genuine issues of material fact to be tried.
 - (2) **Concise Statement of Material Facts:** A separately filed concise statement must articulate the undisputed relevant material facts that are essential for the Court to decide only the motion for summary judgment – not the entire case (See *Also* LR 56.1(c) for formatting and citation instructions)
- (b) **Opposition and Reply Requirements**
 - (1) Opposition to a motion for summary judgment must include a separately filed response to the separate concise statement that responds to each numbered paragraph of the moving party's facts by:
 - (A) Accepting or denying each fact contained in the moving party's concise statement; or
 - (B) Articulating opposition to the moving party's contention or interpretation of the undisputed material fact.
 - (2) After responding to the movant's numbered paragraphs, the responding party may then articulate other relevant material facts which are at issue or are otherwise necessary for the Court to determine the motion for summary judgment.
 - (3) In the same manner as set forth in LR 56.1(b)(1), the moving party shall reply to the responding party's additional facts.

- (c) **Concise Statement:** (See Appendix of Forms #16).
- (1) Facts shall be stated in separately numbered paragraphs. A party must cite to a particular affidavit, deposition, or other document (indicating both page and line number references where appropriate) supporting the party's statement, acceptance, or denial of the material fact.
 - (2) A party may reference only the material facts which are necessary for the Court to determine the limited issues presented in the motion for summary judgment and no others.
 - (3) Documents referenced in the separate concise statement shall not be filed in their entirety. Instead, the filing party must extract and highlight only the relevant portions of each referenced document. Photocopies of extracted pages, with appropriate identification and highlighting will be adequate.
- (d) **Page Limitations:** Unless approved by the Court in advance, neither the concise statement nor any response or reply thereto, may be longer than five (5) pages. Statements in excess of that amount may be stricken by the Court with direction to counsel to further condense the statement.
- (e) **Scope of Judicial Review:** Except as otherwise required by law, when resolving a motion for summary judgment, the Court has no independent duty to search and consider any part of the court record not otherwise referenced in the separate concise statements of the parties.
- (f) **Admission of Material Facts:** For purposes of a motion for summary judgment, material facts set forth in the concise statement of the moving party, or in the response to the moving party's concise statement, will be deemed admitted unless specifically denied or otherwise controverted by a separate concise statement of the opposing party.

Amendment History to LR 56	
June 1, 2002	
LR 56.1(a)(2)	Cross reference LR 56.1(c) – formatting and citation instructions to be included in the Concise Statement.
LR 56.1(b)	" and Reply..." added to caption.
LR 56.1(b)(2)	Last sentence added for clarification.
LR 56.1(c)	Requirement to include page number and line number (where appropriate) information to the Concise Statement.
LR 56.1(f)	"...or in the response..." added.
June 1, 2006	
Generally	Appendix of Forms numbers updated.
LR 56.1(a) LR 56.1(b)(1)	The words "...separately filed.." added
LR 56.1(d)	The words "neither" and "nor any response or reply thereto" added The word "not" stricken. The word "stricken" substituted for "returned"

LR 65 INJUNCTIONS – Calendaring (See Fed. R. Civ. P. 65)

Motions for a preliminary injunction – not otherwise accompanied by the concurrent filing of an application for a TRO – will be calendared as a *non-discovery motion* pursuant to LR 26.

LR 65.1 SECURITY and SURETIES (See Fed. R. Civ. P. 65.1)

LR 65.1.1 Qualifications of Sureties; Deposit Requirements

- (a) Except for qualified corporate sureties, or as otherwise provided by statute, every bond or undertaking must:
 - (1) Be secured by the deposit of cash or government bonds in the amount of the bond; or
 - (2) Have as sureties two residents of the district, each of whom owns real or personal property within the district in excess of that exempt from execution and sufficient to justify the full amount of the surety.
- (b) Except for qualified corporate sureties, before a bond or undertaking may be accepted, each surety must present a verified schedule of assets and liabilities, including a statement of all other bonds and undertakings on which the surety may become liable. If the bond is accepted by the Court, the schedule must be filed with the clerk.

LR 65.1.2 Court Officers as Sureties

- (a) No clerk, marshal, or other employee of the court — nor any member of the bar representing a party in the particular action or proceeding — will be accepted as surety on any bond or other undertaking in any action or proceeding.
- (b) Cash deposits on bonds may be made by members of the bar on certification that the funds are the property of a specified person who has signed a surety on the bond.
- (c) Upon exoneration of the bond — and upon motion and order of Court — monies held by the clerk will be returned to that specified person.

LR 65.1.3 Examination of Sureties

Any party may apply for an order requiring an opposing party to show cause why it should not be required to furnish further or different security, or requiring personal sureties to justify the full amount of the surety.

LR 67 DEPOSITS IN COURT and OTHER FUNDS (See Fed. R. Civ. P. 67)

LR 67.1 Deposits in Court -- Procedural Requirements (See 28 U.S.C. § 2041)

- (a) **Form of Deposit:** All monies paid into the court must be by cash, or by cashier's check, authorized plastic card payment, or certified check made payable to **Clerk, U.S. District Court.**
- (b) **Registry Fund:** Upon receipt, the clerk will deposit the monies with the Treasurer of the United States into the court's registry fund.
- (c) **Assessment of Registry Fee:** Pursuant to the authority of the Judicial Conference of the United States, the clerk will assess a registry fee on all income earned on any court approved account established pursuant to this rule.

LR 67.2 Order to Deposit Funds into Interest Bearing Accounts (See Appendix of Forms #17)
Prior to submission to the Court, the clerk's office financial administrator must approve all proposed orders requesting authority to direct the deposit of funds from the registry of the court into interest-bearing accounts or instruments.

LR 67.3 Funds Withdrawal — Generally (See 28 U.S.C. § 2042)

- (a) **Authority:** 28 U.S.C. § 2042 provides that "*No monies deposited pursuant to 28 U.S.C. § 2041 shall be withdrawn except by order of Court.*"
- (b) **Motion to Withdraw Funds for Redeposit Elsewhere:** (See Appendix of Forms #18) Upon motion or stipulation, the Court may order that funds be withdrawn from the registry of the court for redeposit elsewhere. A proposed form of order must be submitted with an application to withdraw funds, and must contain the following information:
 - (1) The amount on deposit and the schedule of anticipated or future deposits;
 - (2) The amount to be withdrawn and the amount of the registry fee to be assessed by the clerk;
 - (3) The plan for redepositing the funds;
 - (4) The name of the attorney of record who will receive and maintain the funds as a trustee; and
 - (5) The proposed disposition of the funds upon final order of Court.

- (c) **Review of Proposed Orders by the Clerk:** Prior to submission to the Court, the clerk's office financial administrator must approve all applications and proposed orders to withdraw monies.

LR 67.4 Disbursement of Funds

Except as directed by the Court, payments from registry funds held by the Court will be paid jointly to the entitled party and to their local attorney of record, and will be mailed to the attorney for distribution.

LR 67.5 Designated or Qualified Settlement Funds

- (a) **Designation of Fund:** A registry account may be designated to serve as a qualified settlement fund only if:

- (1) There has been a settlement agreement in the case;
- (2) A Court order has established or approved a deposit into the registry as a settlement fund; and
- (3) The liability resolved by the settlement agreement is of a kind described in 26 U.S.C. § 468B or 26 C.F.R. § 1.468B-1(c).

- (b) **Designation of Administrator:** When a registry account is established under LR 67.1, the Court will designate a person outside the court to serve as the administrator responsible for obtaining the employer identification number for the fund, filing all fiduciary tax returns, and paying any tax. Generally, the Court will designate either the person named as administrator in the settlement agreement or counsel for the party that deposited the funds into the registry account.

Amendment History to LR 67	
June 1, 2002	
LR 67	Generally: Cross references added and updated.
LR 67.1(a)	"...authorized plastic card payment..." added.
LR 67.5(b)	Corrected reference to LR 67.1
June 1, 2006	
Generally	Appendix of Forms numbers updated

LR 68.1 Offers of Judgment — Generally

- (a) **Not Filed With the Court** (See LR 5.2): Unaccepted offers of judgment are not to be filed with the Court. They will be maintained by counsel and made available to the parties or the court upon request.

- (b) **Use of Non-filed Offers:** This rules does not preclude the use of an offer for any purpose allowed by the federal rules.

LR 72 MAGISTRATE JUDGES — Pretrial (See Fed. R. Civ. P. 72)

LR 72.1 Pretrial Authority (See 28 U.S.C. § 636(b))

The Court designates every magistrate judge to conduct all pretrial proceedings contemplated by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72, without further designation or assignment from the court.

Practice Tip	
1.	The District of Oregon includes magistrate judges in the random assignment of new civil case filings.
2.	When selected as the assigned judge, the magistrate judge will be the presiding judicial officer, and will conduct all pretrial proceedings in accordance Fed. R. Civ. P. 72.
3.	Magistrate judges may modify scheduling orders issued by other judges.

LR 73 MAGISTRATE JUDGES — Trial by Consent (See Fed. R. Civ. P. 73)

LR 73.1 Duties and Powers (See Fed. R. Civ. P. 73)

Pursuant to 28 U.S.C. § 636(c)(1), and subject to the consent of the parties, every full-time, part-time or recalled Magistrate Judge assigned to the District of Oregon is designated and authorized to exercise civil jurisdiction over all assigned cases, **to include the entry of final judgment and the conduct of any court or jury trial.**

LR 73.2 Accelerated Trial Scheduling

Unlike district judges who are assigned both civil and criminal cases, and by law must give scheduling priority to criminal cases, magistrate judges are only assigned civil cases. Consequently, when parties consent pursuant to Fed. R. Civ. P. 73(b), the assigned magistrate judge is able to set earlier and firmer trial dates than might otherwise be possible for a district judge.

LR 77 DISTRICT COURTS AND CLERKS (See Fed. R. Civ. P. 77)

LR 77.1 District Court Clerk's Office (See Fed. R. Civ. P. 77(a))

Clerk's Office Locations	
Portland District Court Clerk's Office	
Location: Room 740, Mark O. Hatfield United States Courthouse, 1000 S.W. Third Avenue, Portland, Oregon 97204.	
Normal Business Hours	8:30 am to 4:30 pm
Civil Records & Filings	(503) 326-8008
Criminal Records & Filings	(503) 326-8003
Finance Operations	(503) 326-8173
Eugene District Court Clerk's Office	
Location: Room 100, United States Courthouse, 211 E. Seventh Avenue, Eugene, Oregon 97401.	
Normal business hours	8:30 am to 4:30 pm
Records & Filings	(541) 465-6423
Medford District Court Clerk's Office	
Location: Room 213, James A. Redden United States Courthouse, 310 W. Sixth Avenue, Medford, Oregon 97501.	
Normal Business Hours	8:30 am to 4:30 pm
Records & Filings	(541) 608-8777
Internet website	ord.uscourts.gov

LR 77.2 Bankruptcy Court Clerk's Office (See LBR 5001-2)

LR 77.3 After Hours Filings (See Fed. R. Civ. P. 77(a))

- (a) **Statute of Limitations and Other Provisional Process Issues:** When it is necessary to file the above time sensitive matters after normal business hours, the filing party must notify the resident clerk's office **during normal business hours** of the anticipated requirements. Once notified, the clerk's office will make arrangements to receive, file, and process these time sensitive materials.
- (b) **Late Filings of Materials Relating to Court Imposed Deadlines:** Unless otherwise directed by the Court, the clerk's office will not remain after normal business hours to receive a party's late filing of a motion, response, or other non-statute of limitations related documents.
- (c) **After Hours Depository:** The Portland clerk's office maintains an after hours filing depository that is available to the public during the hours that the buildings are open. Negotiable instruments and cash must not be left in this depository.

LR 77.4 Custody and Withdrawal of Court Records

- (a) All files and records of the court must remain in the custody of the clerk.
- (b) Nothing belonging in the files of the court will be withdrawn from the custody of the clerk without a Court order and a signed receipt that specifies the matter withdrawn.

LR 77.5 Clerk's Authority to Grant Orders (See Fed. R. Civ. P. 77(c))

In addition to the authority granted by Fed. R. Civ. P. 77(c), the clerk is authorized to sign and enter the following orders without further direction of the Court.

- (a) Order on consent noting satisfaction of a judgment providing for the payment of money.
- (b) Orders of dismissal pursuant to Fed. R. Civ. P. 41(a)(1), LR 41.1 or LR 47.1.

LR 77.6 Substituting a Copy of an Exhibit or Transcript

Subject to the approval of the parties, the Court may allow the substitution of a copy of an original exhibit or transcript.

LR 77.7 Custody of Exhibits

- (a) **During Court Proceedings:** Unless otherwise directed by the Court, exhibits offered or received in evidence will be maintained by the clerk during the hours in which the court is in session.
- (b) **At the Close of Daily Proceedings**

 - (1) **Sensitive Exhibits:** At the conclusion of the daily proceedings, the Court will generally order that sensitive exhibits be returned to the offering counsel, who will be responsible for maintaining custody and the integrity of the exhibits until the next session of court, when they will be returned to the clerk.
 - (2) **Non-Sensitive Exhibits:** Generally, the clerk will maintain custody of non-sensitive exhibits until the conclusion of the proceedings.

LR 77.8 Return and Disposition of Exhibits

- (a) **Return of Exhibits**

 - (1) **Clerk's Responsibility:** Unless otherwise ordered by the Court, at the conclusion of the hearing or trial, offering counsel will be notified to withdraw any exhibit not attached to a filed document.
 - (2) **Counsel's Responsibility:** Counsel are responsible for:

 - (A) Safely maintaining all exhibits and other returned materials during the time permitted for filing an appeal — and thereafter during the pendency of any appeal, should one be taken; and
 - (B) Granting all reasonable requests of other parties, or the court reporter, to examine any or all returned exhibits or other materials for use in preparation of the record on appeal or for other purposes; and if requested by the Court or the clerk, counsel will promptly return such items to the Clerk's Office.
- (b) **Disposition of Unclaimed Exhibits:** Unless otherwise ordered by the Court, exhibits not withdrawn within sixty (60) days after notice, may be destroyed or otherwise disposed of by the clerk.

LR 79 RECORDS KEPT BY THE CLERK (See Fed. R. Civ. P. 79)

LR 79.1 Orders — Generally

Orders must be designated in the caption as “ORDER” and set forth on a separate document.

LR 79.2 Proposed Orders and Judgments

When requested by the court, a proposed form of order or judgment submitted by counsel must include the words “**SUBMITTED BY**” and the signature line requirements of LR 11.1, e.g.,

SUBMITTED BY: **John Q. Attorney**
 John Q. Attorney
 OSB # 999-99999
 [541] 999-9999
 Attorney for Plaintiff Smith Corporation, Inc.

LR 81 HABEAS CORPUS PETITIONS (See 28 U.S.C. §§2241, 2254, and 2255)

LR 81.1 Petitions Generally

- (a) Petitions by state prisoners for writs of habeas corpus pursuant to 28 U.S.C. § 2254, and motions pursuant to 28 U.S.C. §§ 2241 or 2255 by federal prisoners who are in custody, shall be legibly written or typewritten on forms supplied by the court and shall be signed and verified by the prisoner. The original and two (2) copies of the petition or motion shall be sent to the clerk.
- (b) If the petition is taken in forma pauperis, it shall include an affidavit setting forth information which establishes that the applicant will be unable to pay the fees and costs of the proceedings.

LR 81.2 Procedure in Habeas Corpus (See 28 U.S.C. §§ 2254 and 2255)

All procedures in habeas corpus proceedings and motions under 28 U.S.C. §§ 2254 and 2255 shall follow the rules governing such matters in the United States Courts as adopted and amended by the Supreme Court of the United States.

LR 81.3 Requirements for First Petition in a Capital Case

- (a) **Applicability:** This rule shall govern the procedures for a first petition for a writ of habeas corpus in which a petitioner seeks relief from a state court's judgment imposing a sentence of death. A subsequent filing shall be treated as a first petition under this rule if the original filing was voluntarily dismissed or dismissed for failure to exhaust state remedies. This rule is intended to supplement The Rules Governing §2254 Cases and is not intended to alter or amend those rules. The application of this rule to a particular petition may be modified by the district judge to whom the petition is assigned.
- (b) **Information on Status of Case:** The Clerk of the Court shall periodically request copies of the reports prepared by the State Court Administrator regarding the status of cases in which an Oregon court has imposed the penalty of death.
- (c) **Notice from Petitioner's Counsel:** Whenever counsel determines that a petition will be filed in this court, counsel shall file promptly with the clerk of this court, and send to the Oregon Attorney General's Office, a written notice of intention to file a petition. The notice shall state the name of the petitioner, the county in which the petitioner was convicted, the place of petitioner's incarceration, and the status of the petitioner's state court proceedings. The notice is only for the information of the court, and failure to file the notice shall not preclude the filing of the petition.

(d) Counsel

- (1) Representation by Counsel:** Each petitioner shall be represented by counsel, unless petitioner has clearly elected to proceed pro se and the court is satisfied, after a hearing, that petitioner's election is intelligent and voluntary.
- (2) Appointment of Counsel:** Unless petitioner is proceeding pro se or is represented by retained counsel, counsel shall be appointed in every such case at the earliest practicable time. A panel of attorneys qualified for appointment in death penalty cases will be recruited and maintained by the Federal Public Defender. The Federal Public Defender will accept and review referrals to this panel from interested associations and bar groups. The Federal Public Defender and the members of the Federal Public Defender's office may be included on this list.
- (3) Continuation of Representation:** When a judgment of conviction that includes a sentence of death is affirmed by the Oregon Supreme Court and subsequent proceedings in the state courts have been concluded, if counsel is willing to continue representation in the federal habeas corpus proceedings, the Federal Public Defender shall review counsel's performance in the state courts and make a recommendation as to whether that counsel should be appointed in federal court.
- (4) State Post-Conviction Counsel Available:** If state post-conviction counsel is available and willing to continue representation in the federal court, and if he or she is found to be qualified to do so by the Federal Public Defender, there is a presumption in favor of continued representation. In light of this presumption, it is expected that appointed counsel who is willing to continue representation and who has been found by the Federal Public Defender to be qualified to do so would file a motion for appointment of counsel on behalf of the client, together with the client's federal habeas corpus petition. If, however, counsel for any reason wishes to confirm his or her appointment before preparing the petition, counsel may move for appointment before filing the petition.

- (5) **State Post-Conviction Counsel Unavailable:** If state post-conviction counsel is not available to represent petitioner in the federal habeas corpus proceedings, or if appointment of state post-conviction counsel would be inappropriate for any reason, the court shall appoint counsel upon application of petitioner. The clerk of court shall have forms available for such application. A model form for such application is annexed to this rule. The Federal Public Defender shall recommend counsel to the court from the panel of qualified attorneys. If application for appointment of counsel is made before a finalized petition has been filed, the application shall be assigned to a district judge in the same manner that a finalized petition would be assigned, and counsel shall be appointed by the assigned judge. The judge so assigned shall continue to preside over the proceedings through their conclusion.
- (6) **Two Counsel to be Appointed:** Due to the complex, demanding, and protracted nature of death penalty proceedings, at least two counsel shall be appointed in every case.

(e) **Filing**

- (1) **Assignment of Case Number:** Upon the submission of any document identified at LR 81.3(c), LR 81.3(d)(5), LR 81.3(g)(2) and (3), the next sequentially numbered Civil Miscellaneous file shall be opened and that number assigned to the document. Future submissions relative to the same proceeding shall also bear the same Civil Miscellaneous number.
- (2) **Petition Requirements:** Petitions shall be completed in conformance with the Model Form accompanying the Rules Governing §2254 Cases. All petitions (a) shall state whether petitioner has previously sought relief arising out of the same matter from this court or any other federal court, together with the ruling and reasons of such court, and (b) shall set forth any scheduled execution date. The foregoing requirements do not apply to preliminary petitions filed under Section (g)(2) and (3), below.
- (3) **Copies**
An original and three copies of the petition shall be filed by counsel for the petitioner. A pro se petitioner need only file the original. If no fee is tendered or waiver sought with the filing of a petition, the clerk shall grant in forma pauperis status conditionally, subject to further review by a judge, and shall not delay the filing, assignment, or statistical opening of any civil action pending the resolution of in forma pauperis status.

- (f) **Assignment to District Judges:** Notwithstanding the general assignment plan of this court, petitions shall be assigned to the district judges of the court as follows:
- (1) **Category:** The clerk of the court shall establish a separate category for these petitions, to be designated with the title “Capital Case”.
 - (2) **Participation:** All active district judges of this court shall participate in the assignments, without regard to intra district venue.
 - (3) **Random Assignment:** Until each active district judge has one capital case, petitions in the capital case category or pre-petition documents identified at LR 81.3(c), LR 81.3(d)(5), LR 81.3(g)(2) and (3) shall be assigned blindly and randomly by the clerk of the court to each of the active district judges of the court. At such time as each active district judge has one capital case, the blind assignment process will start again until each active district judge, and other judges the calendar management committee finds available, has taken a case. Assignment and new filings will continue under this procedure.
 - (4) **Certificate of Unavailability:** If the assigned district judge has filed a Certificate of Unavailability with the clerk of the court, which is in effect on the date of the assignment, a new random assignment will be made to another judge immediately.
 - (5) **Previously Assigned Petition:** If petitioner has previously sought relief in this court with respect to the same conviction, the petition will be assigned to the district judge who was assigned to the prior proceedings, if he or she is still sitting, unless such district judge has taken senior status and has elected not to hear capital habeas corpus petitions.
 - (6) **Assignment to a Magistrate Judges:** Pursuant to 28 U.S.C. §636(b)(1)(B), and not inconsistent with law, United States magistrate judges may be designated by the court to perform all duties under this rule.

(g) **Stays of Execution** (See Appendix of Forms ~~#15~~ #19)

- (1) **Stay Pending Final Disposition in District Court:** Upon the filing of a petition, unless the petition is patently frivolous, the judge may order a stay of execution pending final disposition of the petition in this court.
- (2) **Temporary Stay for Appointment of Counsel:** When counsel in the state court proceedings withdraws at the conclusion of the state court proceedings or is otherwise not available or qualified to proceed, the Federal Public Defender will designate an attorney from the panel, who will assist an indigent petitioner in filing a pro se application for appointment of counsel and for temporary stay of execution. This application shall be substantially in the form presented in the Appendix of Forms, and shall be accompanied by a statement, describing one or more federal grounds for relief. Upon the filing of this application and statement, the district court shall issue a temporary stay of execution and appoint counsel from the panel of attorneys certified for appointment. The temporary stay will remain in effect for forty-five (45) days unless extended by the court.
- (3) **Temporary Stay for Preparation of the Petition:** When counsel new to the case is appointed, upon counsel's application for a temporary stay of execution accompanied by a specification of issues to be raised in the petition, the district court shall issue a temporary stay of execution, unless only frivolous issues are presented. The temporary stay will remain in effect for one hundred twenty (120) days from the filing of the record by the respondent under Section (h)(1) of this rule, to allow newly appointed counsel to prepare and file the petition. The temporary stay may be extended by the court upon a showing of good cause.
- (4) **Stay Pending Appeal from District Court:** If the petition is denied and a certificate of appealability is issued, the court will grant a stay of execution, which will continue in effect until the court of appeals issues its mandate.
- (5) **Notice of Stay:** Upon the granting of any stay of execution, the clerk of the court will immediately notify the Oregon Attorney General's Office which shall immediately notify the Superintendent of the Oregon State Penitentiary. The Oregon Attorney General's Office shall ensure that the clerk of the court has a 24-hour telephone number to that office.
- (6) **Application of 28 U.S.C. §2262:** Subsection (1) through (4) of this section (g) apply only if the stay provisions of 28 U.S.C. §2262 do not apply.

- (h) **Procedures for Considering the Petition:** Unless the district judge dismisses the petition under Rule 4 of the Rules Governing §2254 Cases, the following schedule and procedure shall apply, subject to modification by the district judge for good cause shown. Requests for enlargement of any time period in the Rule shall comply with Local Rules.
- (I) **Schedule:** Respondent shall, as soon as practicable but in any event on or before sixty-three (63) days from the date of service of the application for appointment of counsel or the petition, whichever occurs first, file with the court duplicate copies of the following documents. These documents also must be served on petitioner's lead counsel, unless respondent confirms that petitioner's counsel already has a copy of the document. If respondent's and petitioner's counsel agree, item(s) may be omitted from this list.
- (A) Relevant portions of the trial court file from petitioner's criminal trial, and the Oregon Judicial Information Network (OJIN) printout reflecting the contents of that trial court file;
 - (B) Relevant transcripts filed with the Oregon Supreme Court on direct review.
 - (C) The appellant's and respondent's briefs and any reply brief filed on direct review in the Oregon Supreme Court, and the opinion and any relevant orders of that court; any petition for certiorari from the Oregon Supreme Court's decision, together with the state's response, if any; any subsequent briefing filed in the United States Supreme Court and any relevant orders and decisions from that Court, and the appellate judgment;
 - (D) Relevant portions of the trial court file, including petitioner's petition(s) and the trial court's opinion, if any, and judgment, from any state post-conviction case that arose from the same conviction, together with the pertinent OJIN printout;
 - (E) Relevant transcripts filed with the trial court in any state post-conviction case that arose from the same conviction, except to the extent those transcripts and exhibits are covered by subsection (h)(I)(B) of this rule;

- (F) The petitioner's and respondent's briefs filed on appeal in any state post-conviction proceeding arising from the same conviction; the opinion and any relevant orders of the Oregon Court of Appeals; the petition for review, if any; any additional briefing filed in the Oregon Supreme Court; any pertinent orders from that court, together with the court's opinion, if any review is allowed; and petition for certiorari filed with the United States Supreme Court; the response, if any; and relevant orders and decisions from that Court, and the appellate judgment;
- (G) Copies of all pleadings, opinions, and orders in any previous federal habeas corpus proceeding filed by petitioner, or on petitioner's behalf, that arose from the same conviction; and
- (H) An index of all materials described in items (A) through (G) above shall be prepared reflecting the filing date, title of the document and a reference to the document number for each document submitted. These requirements also apply to any supplements to the state court record.

For purposes of this rule, "relevant" means any document that respondent reasonably believes may relate to a claim raised by petitioner. If any items identified in paragraphs (A) through (G) above are not available, respondent shall state when, if at all, such missing material can be filed.

(2) Assembling the Record

- (A) Both copies of each document submitted under LR 81.3(h)(1)(A) through (G) shall be individually tabbed and numbered consecutively.
- (B) Each document submitted shall bear a copy of the state court file stamp. The record shall be accompanied by a certification from the clerk of the state court attesting to the authenticity of the documents.

- (C) The state court record shall be submitted in volumes consisting of no more than 250 pages each. Each volume shall be two-hole punched at the top center and fastened with a two prong fastener. Each volume shall be identified with the case title and case number as required in LR 10.2. The caption of the volume shall be, e.g:

Clerk's Record - Multnomah County Circuit Court
C86-05-323246
Vol. #1 of 3 Volumes

- (3) **Failure to Comply:** If counsel for petitioner claims that respondent has not complied with the requirements of paragraphs (1) and (2), counsel for petitioner shall immediately notify the court in writing, with a copy to respondent.
- (4) **Status Conference:** As soon as practicable after the filing of the petition, the court shall set a status conference to determine a schedule for further proceedings.
- (5) **Procedural Defenses**
- (A) Respondent is responsible for raising procedural defenses in the appropriate responsive pleading(s). A failure to plead any such defense, except exhaustion, before the date of the evidentiary hearing, or submission of the case for decision in cases in which no evidentiary hearing is held, will constitute a waiver of the defense.
- (B) The respondent may choose to waive a procedural defense in order to address the merits of the claim(s) for which the defense is waived.
- (I) **Evidentiary Hearing:** If an evidentiary hearing is held, the court will order the preparation of a transcript of the hearing, which is to be provided immediately to petitioner and respondent for use in briefing and argument. Upon the preparation of the transcript, the court may establish a reasonable schedule for further briefing and argument of the issues considered at the hearing.

(j) Rulings

- (1)** The court's rulings may be in the form of a written opinion, which will be filed, or in the form of an oral opinion on the record in open court, which will be transcribed and filed promptly.
- (2)** The clerk of the court will notify the Superintendent of the Oregon State Penitentiary and the Oregon Attorney General's Office immediately whenever relief is granted on a petition.
- (3)** The clerk of the court will notify the clerk of the United States Court of Appeals for the Ninth Circuit immediately, by telephone, of (1) the issuance of a final order denying or dismissing a petition without a certificate of appealability, or (2) the denial of a stay of execution.
- (4)** When a notice of appeal is filed, the clerk of the court will transmit the records to the Court of Appeals immediately, as required by Circuit Rules.

- (k) Return of State Court Record:** Upon conclusion of proceedings at either the district or appellate court level, the clerk of the court is directed to return one copy of the state court record to the office of the Oregon Attorney General.

Amendment History to LR 81	
June 1, 2002	
LR 81.3(g)	Added reference to Appendix of Forms
June 1, 2006	
Generally	Appendix of Forms number updated

LR 83 RULES & DIRECTIVES – BY THE DISTRICT COURT (See Fed. R. Civ. P. 83)

LR 83.1 Attorney Admissions - Generally

- (a) **Limitations on Practice:** (See LR 83.2-5). Only attorneys generally or specially admitted pursuant to this rule may practice in the district and bankruptcy courts of the District of Oregon.
- (b) **Application Forms:** (See Appendix of Forms #20). An applicant must submit an application for general or special admission in the format provided by the clerk's office.
- (c) **Payment of Fees:** Attorney admission fees must be paid at the time the application for general or special admission is filed with the clerk.
- (d) **Sanctions for Unauthorized Practice:** Any person who exercises any of the privileges of a member of the bar of this court without being entitled to do so, will be guilty of contempt.
- (e) **CM/ECF Registration:** (See LR 100.2).
 - (1) Attorneys admitted to practice pursuant to LR 83 are required to complete and deliver to the clerk's office, the CM/ECF Attorney Registration form found at ord.uscourts.gov/ECF/CMECFHomePage.htm
 - (2) Attorneys must apply to the assigned judge on a case-by-case basis for exemption from CM/ECF Registration.

LR 83.2 Admission to General Practice

Admission to general practice, and continuing membership in the bar of this court, is limited to attorneys of good moral character who are active members in good standing with the Oregon State Bar.

- (a) **Application for Special Admission *Pro Hac Vice*:** (See Appendix of Forms #21). Any attorney who is an active member in good standing of the bar of any United States court, or the highest court of any state, territory, or insular possession of the United States, may apply to be specially admitted *pro hac vice* in a particular case, provided they:
- (1) Associate with an attorney admitted to general practice before the bar of this court, who will meaningfully participate in the preparation and trial of the case. (See LR 83.2 and LR 83.4).
 - (2) Pay the admissions fee and file a *pro hac vice* admission application in every case in which the attorney seeks to be specially admitted.
 - (3) Certify professional liability insurance, or an equivalent financial responsibility, will apply and remain in force for the duration of the case, including any appeal proceedings.
- (b) **Motion to Waive Special Admissions Fee:** For good cause shown, any attorney may move to have the Court waive the special admission fee in a particular case.
- (c) **Order Granting Special Admission:** The assigned judge will review and rule upon the application for special admission.
- (d) **Scheduling Court Proceedings:** Unless otherwise directed by the assigned judge, the clerk's office will coordinate and schedule all calendaring actions, telephone conferences, and other court proceedings through local counsel.
- (e) **Notice to *Pro Hac Vice* Counsel**
- (1) ***Pro Hac Vice* Counsel Registered with the CM/ECF System:** *Pro hac vice* counsel registered with the CM/ECF system pursuant to LR 83.1(e) will receive electronic notice pursuant to LR 100.7.
 - (2) ***Pro Hac Vice* Counsel Exempt from CM/ECF Registration:** Unless otherwise directed by the assigned judge, the clerk's office will mail copies of notices, schedules, orders, and other court communications only to the associated local counsel. Associated local counsel will be responsible for distributing and coordinating the information with the *pro hac vice* attorney.

LR 83.4 Special Admissions — Government Attorneys

Attorneys who represent the United States, Indian treaty tribes, a state, or any agency of these sovereigns, may appear in a case without having to comply with LR 83.1(c) and LR 83.2.

LR 83.5 Special Admissions — Certified Law Students

- (a) Eligibility:** An "eligible" law student is a law student meeting all the requirements of Rule 13.20 of Rules for Admission of Attorneys of the Supreme Court of the State of Oregon ("Oregon Rules").
- (b) Certification:** A law school dean must make the certification described in Oregon Rules 13.20 and 13.25 by filing with the clerk of this court a copy of the certification filed with the State Court Administrator. The dean may withdraw the certification and this Court may terminate the certification as provided in Oregon Rule 13.25. The certification must otherwise remain in effect for the period described in Oregon Rule 13.25(1).
- (c) Supervising Counsel**

 - (1)** In all cases, there must be a supervising attorney who is a member of the bar of this Court and attorney of record on behalf of the client on whose behalf the law student is appearing. No law student may appear until the client, the supervising attorney and the judge of this Court before whom the appearance is to be made have consented to such an appearance.
 - (2)** The supervising attorney is responsible for explaining to the client the nature and extent of the law student's participation, and for obtaining the client's consent to such participation. The client's consent must be in writing, filed with the Clerk, and become part of the record of the case. Consent by the United States Attorney for the District of Oregon will constitute consent by the United States.
 - (3)** The supervising attorney must be present at all times when the law student appears before the Court. The member of the bar of this Court under whose supervision an eligible law student does any of the things permitted by these rules must assume responsibility for the student's guidance in any work undertaken and for supervising the quality of the student's work.

LR 83.6**Suspension or Disbarment**

- (a) **Duty of Counsel to Notify Court:** Every attorney admitted to general or special practice before this Court has an affirmative duty to notify the Chief Judge and the assigned judge in writing within ten (10) days after they have:
- (1) Been suspended or disbarred from practice by any court.
 - (2) Been convicted of a felony in either a state or federal court.
 - (3) Resigned from the bar of any court while an investigation was pending into allegations of misconduct which would warrant suspension or disbarment.
 - (4) Been notified of a change in their admissions status in any other jurisdiction which would affect their eligibility for general or special admission to the bar of this Court.
- (b) **Order to Show Cause**
- (1) Upon receipt of a notice pursuant to LR 83.6(a), or upon notice or information that an LR 83.6 violation may have occurred, the Court may direct the clerk to issue an order to show cause why disciplinary action including suspension, disbarment, or other appropriate disciplinary action) should not be taken against the attorney.
 - (2) The clerk will mail the order to the last known address of the attorney and the Oregon State Bar's Discipline Committee.
 - (3) The attorney must file a response to the order within twenty (20) days from the date of the order, showing good cause why he or she should not be subject to disciplinary action. If requested, the responding attorney may ask that a hearing be held on the matter. If a hearing is requested, the Chief Judge may appoint a judge or special master to preside over the hearing.
 - (4) At the conclusion of any hearing, or within twenty (20) days if no response is filed by the attorney, the presiding judge or master will enter a final order. A copy of the order will be mailed to the attorney and the Oregon State Bar's Discipline Committee.

- (c) **Reinstatement Following State Bar Disciplinary Action:** Attorneys who have applied for reinstatement to The Oregon State Bar (pursuant to Title 8 of The Oregon State Bar's Rules of Procedure) must also separately apply for reinstatement to the bar of this Court **after** being reinstated by the Oregon Supreme Court. Applications for reinstatement before this Court must be filed with the clerk using the same forms required by The Oregon State Bar and the applicant must pay the appropriate fee.

LR 83.7 Standards of Professional Conduct

Every attorney admitted to general or special practice and every law student appearing pursuant LR 83.5 must:

- (a) Be familiar and comply with the standards of professional conduct required of members of the Oregon State Bar and this Court's Statement of Professionalism. (See Appendix of Forms #22);
- (b) Maintain the respect due courts of justice and judges.
- (c) Perform with honesty, care, and decorum required for the fair and efficient administration of justice.
- (d) Discharge the obligations owed to their clients and to the Court, and assist those in need of counsel when requested by the Court.

LR 83.8 Cooperation Among Counsel

- (a) Counsel must cooperate with each other, consistent with the interests of their clients, in all phases of the litigation process and be courteous in their dealings with each other, including matters relating to scheduling and timing of various discovery procedures.
- (b) The Court may impose sanctions if it finds that counsel has been unreasonable in not accommodating the legitimate requests of opposing counsel. In a case where an award of attorney fees is applicable, the Court may take a lack of cooperation into consideration in setting the fee.

LR 83.9 Appearances by an Attorney

- (a) **Appearance by Filing:** The filing of any document constitutes an appearance by the attorney who signs the document.

Practice Tip
In order to be added to the case docket as attorney of record for notification purposes, each registered attorney must file a Notice of Appearance using his or her individual login and password.

- (b) **Appearance by Represented Parties Through Counsel:** A party represented by an attorney cannot appear or act except through the attorney. Unless otherwise specifically provided by law or Court order, a corporation may appear or act only through an attorney.

LR 83.10 Notification of Change of Address or Affiliation

- (a) **Current Address Information:** Every attorney admitted to general or special practice, and every unrepresented party, has a continuing responsibility to notify the clerk's office whenever their mailing address, telephone number, and/or business e-mail address changes. Commensurate with filing the notice to the court, the attorney must update his/her CM/ECF User Account.
- (b) **Notice of Change of Mailing and/or Business E-Mail Address:** Notice of a change of mailing and/or business e-mail address must be filed in pleading form and served on all parties to any pending action, or case on appeal.

LR 83.11 Withdrawal From a Case

- (a) **Withdrawal - Court Approval Required:** An attorney may withdraw as counsel of record only with leave of Court, if doing so leaves the party unrepresented or without local counsel. A motion must be filed and served on the client and opposing counsel. The motion will be heard on an expedited basis.
- (b) **Withdrawal – When Co-Counsel Exists:** A notice of withdrawal of attorney may be filed by the withdrawing attorney or co-counsel for the party.
- (c) **Death, Removal, Suspension, or Inaction of Attorney:** When an attorney dies, is removed or suspended, or ceases to act, the party, unless already represented by another attorney, must designate a new attorney or appear in person before further proceedings occur.

LR 83.12 Undeliverable Mail (See LR 100.7)

When court mail is sent to the last known address of an attorney of record or unrepresented party, and the postal service returns the mail as undeliverable because the attorney or party has failed to notify the clerk of a changed address, and the failure to notify the clerk of the change of an address continues for sixty (60) days, then the Court may strike appropriate pleadings, enter a default, or dismiss the action.

LR 83.13 Reminders to the Court

- (a) **Matters Under Advisement:** If any matter, including a motion or a decision in a bench trial, is under advisement more than sixty (60) days, each affected party must send the judge a letter describing the matter and stating when it was taken under advisement. Every forty-five (45) days thereafter, while the matter remains under advisement, each affected party must send a similar letter to the Chief Judge.
- (b) **Failure to Schedule a Preliminary Pretrial Conference:** Unless a trial date has already been set, if the assigned judge fails to schedule a preliminary pretrial conference within ten (10) days of the lodging of the pretrial order or order waiving the pretrial order, each affected party must send the assigned judge a letter advising that no conference has been set.

LR 83.14 Cameras — Pagers — Cell Phones — Laptop Computers

- (a) **Cameras**
 - (1) **Prohibition — Generally:** Except as authorized by a judge in a particular proceeding, cameras and any other type of audio, video, or digital broadcasting or recording devices, are not permitted in the courthouse. All such items must be checked at the court security checkpoint prior to entry into the courthouse.
 - (2) **Exceptions for Ceremonial Occasions:** Cameras and other recording devices are allowed during naturalization ceremonies, investitures, and other Court approved ceremonial and educational programs.
- (b) **Pagers:** Pagers are permitted in the courthouse, **provided** they are switched to a vibrate signal (rather than an audible signal) prior to entry. Jurors must turn their pagers over to the courtroom deputy clerk during deliberations.
- (c) **Cellular Phones:** Cellular phones are permitted in the courthouse, but must be turned off in courtrooms, chambers areas, or agency office areas. Jurors must turn their cellular phones over to the courtroom deputy clerk during deliberations.
- (d) **Laptop Computers:** Laptop computers may be brought into the courthouse and, if authorized by the Court, may be used during court proceedings.

LR 83.15 Certifying a Question to the Oregon Supreme Court (See ORS 28.200-255)

- (a) **Criteria:** For purposes of this rule, the Court will be guided by the certification criteria set forth in *Western Helicopter Services, Inc., v. Rogerson Aircraft Corporation*, 311 Or. 361, 811 P.2d 627 (1991).
- (b) **Procedural Requirements**

 - (1) **Party Responsibilities:** Any party seeking to have this Court certify a question of law to the Oregon Supreme Court must file and serve a motion with a supporting memorandum that complies with the requirements of paragraph (a) above.
 - (2) **Court Responsibilities**

 - (A) **Assigned Judge:** If the assigned trial judge (district, bankruptcy, or magistrate judge) believes that certification of a question to the Oregon Supreme Court is appropriate, he or she will refer that recommendation to the Chief Judge.
 - (B) **Chief Judge Responsibility:** Upon receipt of the recommendation, the Chief Judge will confer with other members of the Court. If the Court concurs, the Chief Judge will certify the question to the Oregon Supreme Court.

Amendment History to LR 83	
September 23, 1999	
LR 83.2	Amended to eliminate the trial certification requirements of the previous rule.
June 1, 2000	
LR 83.16	This rule establishes corporate disclosure statements similar to those required by Fed. R. App. P. 26.1.
June 1, 2002	
LR 83.1(b)	Reference to the court's website deleted.
LR 83.1(e)	New Rule: CM/ECF registration requirements added.
LR 83.3(d)	Title amended to "Scheduling Court Proceedings". Subsection (2) deleted.
LR 83.3(e)	New Rule.
LR 83.4	Reference to LR 83.1(c) added.
LR 83.6	"... by any court." added.
LR 83.10(a) and (b)	Amended to include business e-mail address.
LR 83.12	Cross-reference to LR 100.13 added.
June 1, 2006	
Generally	Cross references updated. Appendix of Forms numbers updated. Updated website addresses.
LR 83.1(e)(2)	New Rule.
LR 83.3(a)	The words "the attorney" substituted for "they" at (2). The word "including" substituted for the words "to include" at (3)
LR 83.3(e)	The first sentence divided into two sentences. The words "Associated local counsel" added to and the words "in turn" stricken from the new second sentence.
LR 83.5(c)(1)	The word "is" substituted for the word "must"
LR 83.6	The word "the" added at (a) The word "including" substituted for "to include" at (b)(1)
LR 83.6(c)	New Rule.
LR 83.7(a)	The words "...and this Court" added.
LR 83.8	The word "the" stricken a (a). Practice Tip added at (b)..

LR 83.9	Practice Tip added at (a). The sentence beginning "Unless otherwise specifically..." added at (b).
LR 83.10(a)	Added requirement to maintain CM/ECF user account.
LR 83.11	Made a distinction between withdrawal of a single attorney and those parties represented by multiple attorneys at (a) and new (b). Subsequent sections re-lettered The word "any" stricken in first sentence of new (c).
LR 83.13(a)	The words "Chief Judge" substituted for "chair of the Calendar Management Committee.."
LR 83.14	The word "must" substituted for "will" in all subsections.
LR 83.15(a)	The word "Criterion" changed to "Criteria" throughout.
LR 83.15(b)(1)(A)	Test of this section merged into LR 83.15(b)(1).
LR 83.15(b)(1)(B)	Rule deleted.
LR 83.16	Rule deleted as now addressed in Fed. R. Civ. P. 7.1.

**LR 100 RULE GOVERNING CM/ECF – CASE MANAGEMENT AND ELECTRONIC
CASE FILING - PRACTICES**

LR 100.1 CM/ECF – Case Management and Electronic Case File System

- (a) **General:** The District of Oregon uses the federal judiciary's CM/ECF system and the Internet to support electronic filing and service in civil and criminal cases, and electronic access to public civil and criminal court records.
- (b) **Electronic Filing in Civil and Criminal Cases:** Unless otherwise limited by these rules, not later than September 1, 2006, the Court and Registered Users will electronically file pleadings, documents, and other papers in all pending civil and criminal cases (See LR 100.2 – Registered Users).
- (c) **CM/ECF User's Manual:** Electronic filing requirements are described in detail in the *CM/ECF User's Manual* on the court's website at www.ord.uscourts.gov. From time to time this manual may be updated to conform to the evolving CM/ECF system. Notice of any updates will be posted on the court's website.

Practice Tip – CM/ECF Information	
Internet Online Help	Internet assistance to CM/ECF users can be found in the court's <i>CM/ECF User's Manual</i> and on the court's website at www.ord.uscourts.gov .
e-mail Questions	Registered Users should e-mail their questions about the CM/ECF system to info@ord.uscourts.gov .
Clerk's Office Assistance	Clerk's Office staff are available by telephone to help Registered Users on the CM/ECF system.
Public Access to Court Electronic Records (PACER)	Individuals must establish a PACER User's Account to retrieve public information from the docket sheet, or to download public documents for a fee. Information about how to set up an individual PACER User's Account is available on the court's website at www.ord.uscourts.gov , or on the PACER Service Center website at www.pacer.psc.uscourts.gov .

LR 100.2 CM/ECF Registered Users (See LR 83)

- (a) **Registration Requirements:** Lawyers admitted to the bar of this court pursuant to LR 83.1, LR 83.3 and LR 83.4 must register with the CM/ECF system and maintain a current CM/ECF e-mail account sufficient to receive service of electronic filings and court notices. Upon registration, lawyers are deemed to be Registered Users for purposes of these local rules.
- (b) **Login and Password Security:** No person may knowingly permit or cause to permit a password to be used by anyone other than an authorized agent of the Registered User. Registered Users agree to protect the security of their password and notify the Clerk's Office immediately if they learn that their password has been compromised.
- (c) **Consent to Service:** In accordance with Fed. R. Civ. P. 5(b)(2)(D), Registered Users who have appeared in the action are deemed to consent to electronic service of all electronically filed documents by the Court or other Registered Users who have appeared in the action. Such consent does not apply to service made pursuant to Fed. R. Civ. P. 4, 4.1, and 45.
- (d) **Non-Registered User Attorneys:**

 - (1) **Exemption from CM/ECF Requirements:** For good cause shown in a specific case, attorneys without access to automation and the Internet may apply to the assigned judge for an exemption from the CM/ECF electronic filing requirements (See LR 83.1(e)).
 - (2) **PDF Filing Requirements:** Attorneys exempted pursuant to this rule must include with every conventional filing a 3.5" diskette or CD-ROM containing a text searchable PDF version of all papers filed with the court (See Practice Tip – LR 100.4).
- (e) **Pro Se Party Litigants:** On a case-by-case basis, a *pro se* party may apply to the assigned judge for permission to become a Registered User. Every such application must demonstrate the *pro se* party's automation, word processing, and Internet access capabilities, and must include an agreement to abide by the requirements of these local rules and the *CM/ECF User's Manual*. If approved, the clerk will assign the *pro se* party a CM/ECF login and password, and that individual will become a Registered User in the specific case.

LR 100.3 Official Record

- (a) **Electronic Filing:** In accordance with Fed. R. Civ. P. 58 and 79, the electronic filing of a document (together with the CM/ECF system's transmission of the *Notice of Electronic Filing*) constitutes filing of that document, the official record for all purposes of the Federal Rules of Civil Procedure and the local rules of this Court, and entry of the document on the docket kept by the Clerk.
- (b) **Conventional Filings:**

 - (1) **Filed Before September 1, 2006:** Unless otherwise directed by the Court, documents filed conventionally before September 1, 2006 constitute the official record and parties are not required to submit an electronic version of those conventional filings.
 - (2) **Filed After September 1, 2006:** Documents authorized to be filed conventionally on or after September 1, 2006, will be filed and docketed by the Clerk and will constitute the official record until the Clerk elects to scan and upload an electronic version of the conventional filing pursuant to LR 100.(3)(b)(3).
 - (3) **Converting a Conventional Filing into a CM/ECF Electronic Replacement:** The Clerk may scan and convert a conventional filing in its entirety to an electronic replacement for posting to the CM/ECF system. Should the Clerk do so, the conventional filing may be discarded and not returned to the filing party after providing reasonable notice to all parties.

LR 100.4 Special CM/ECF Filing Requirements

- (a) **Initial Case Papers:** Initial case papers must be conventionally filed with the Clerk's Office. Concurrent with the initial case paper filings, a Registered User must also include a text searchable PDF version of every initial case paper (including scanned versions of related state court papers in removal actions) on a 3.5" diskette or CD-ROM.

Practice Tip – Text Searchable PDF Documents	
1.	Word processing systems (WordPerfect, MS Word, etc) can generate a searchable PDF version of every document created by the system.
2.	Attachments, or other documents not generated by the filing party's word processing system (affidavits, exhibits, state court records on removal, etc.), should be scanned and then converted into a searchable PDF version through the Adobe Acrobat™ "paper capture" function. Exhibits which are primarily graphical do not have to be converted to text searchable documents.
3.	Explanations for both options are included in the on-line User's Manual at www.ord.uscourts.gov , and the user's word processing manuals.

- (b) **Judge's Paper Copy Requirements:** (See LR 5.1(c)). A paper copy of the following electronically filed motions, responses, and replies (including associated legal memoranda, attachments, exhibits, affidavits or declarations), and the Notice of Electronic Filing, shall be marked as a "JUDGE'S COPY" and delivered to the Clerk's Office within three (3) days after the electronic filing:
- (1) **Civil Cases:** Dispositive motions, motions for injunctive relief, and any documents in excess of five (5) pages.
- (2) **Criminal Cases:** Motions *in limine*, motions to dismiss, suppression motions, and any documents in excess of five (5) pages.

(c) Attachments and Exhibits:

- (1)** Registered Users must submit in electronic form all documents referenced as exhibits or attachments, unless the Court permits the document to be conventionally filed.
- (2)** A Registered User must submit as exhibits or attachments only those excerpts of the referenced documents that are directly germane to the matter under consideration by the Court. Excerpted material must be clearly and prominently identified as such. Registered Users who file excerpts of documents as exhibits or attachments under this rule do so without prejudice to their right to timely file additional excerpts or the complete document. Responding parties may timely file additional excerpts or the complete document that they believe are directly germane. The Court may require parties to file additional excerpts or the complete document.
- (3)** Demonstrative or oversized exhibits may be filed conventionally.
- (4)** Trial exhibits are not filed either electronically or conventionally with the Court, and must be delivered or submitted as ordered by the assigned judge.

(d) Notice of Appeal: Notices of Appeal may be electronically filed. However any required fee must be paid to the District Court within three (3) days.

(e) Documents That Must Be Filed Conventionally: The following documents must be conventionally filed and served and may not be electronically filed via the CM/ECF system:

- (1)** Initiating case papers (See LR100.4(a)).
- (2)** Sealed and *in-camera* documents (See also LR 3.9, 3.10 and 10.3).
- (3)** Individual Consent to Jurisdiction by a United States Magistrate Judge.
- (4)** Social security administrative record.
- (5)** Individually identifiable health information protected under HIPAA . (See also 45 CFR 160.103).

(f) Administrative Records: Administrative records including, but not limited to APA, IDEA, ERISA and INS administrative records, may be conventionally filed and served without prior Court approval.

LR 100.5 Electronic Filing Deadlines

- (a) Electronic filing via the CM/ECF system is permitted at all times, except when the system is temporarily unavailable due to routine or emergency maintenance.
- (b) The filing deadline for any document is 11:59 pm (Pacific Time) on the day the document is required to be filed.
- (c) If an electronic filing relates to a scheduled court proceeding that is to be held within three (3) days of the filing date, the filing party must telephone or e-mail the assigned judge's courtroom deputy to request that chambers be promptly notified of the e-filing.
- (d) A document will be considered filed when all components of the document reside in the official court record.

LR 100.6 Electronic Signatures

- (a) A Registered User's login and password required to file documents via the CM/ECF system constitute the Registered User's signature for purposes of the Federal Rules of Civil Procedure (including Fed. R. Civ. P. 11), the Local Rules of this Court, and for any other purpose for which a signature is required in connection with proceedings before the Court.
- (b) Electronically filed documents must include a signature block in accordance with LR 11.1, including the typed name of the Registered User who filed the document preceded by an "s/" (followed by the typed name) in the space where the signature would otherwise appear.

s/ John Q. Attorney
JOHN Q. ATTORNEY
OSB # 999-99999
[541] 999-9999

Attorney for Plaintiff Smith Corporation, Inc.

- (c) Documents containing the signature of a non-Registered User are to be filed electronically with the signature represented by an "s/" and the name typed in the space where a signature would otherwise appear, or as a scanned image. (See also LR 100.4 and LR 10.10).

- (d) Documents requiring the signatures of more than one party must be electronically filed either by:
 - (1) Submitting a scanned document containing all necessary signatures.
 - (2) Representing the consent or stipulation of the other parties on the document.
 - (3) Identifying on the document the signatures which are required and submitting written confirmation by the parties no later than three (3) days after the filing, or
 - (4) In any other manner approved by the Court.

LR 100.7 **Service** (See also LR 100.2(b))

(a) **CM/ECF Electronic Service:**

- (1) **Completion of Service:** Electronic service is complete upon transmission of the *Notice of Electronic Filing*, but is not effective if the serving party learns that it did not reach the person to be served.
- (2) **Notice of Electronic Service:** The *Notice of Electronic Filing* will be transmitted to all Registered Users who have appeared in the case, and confirmation of receipt of the *Notice of Electronic Filing* fulfills the notice requirements of Fed. R. Civ. P. 5(b) and 77(d). (See Appendix of Forms #23).

Practice Tip – Notice of Electronic Filing
Except for a document filed under seal, the <i>Notice of Electronic Filing</i> generated by the CM/ECF system includes: a hyperlink to the electronic filing; the filing date and time; the name(s) of every Registered User and secondary addressees to whom the notice was transmitted; and the names of every case participant who was not sent electronic notice of the filing.

- (b) **Conventional Service:** The filing party is responsible for perfecting conventional service in any manner permitted by the Federal Rules of Civil Procedure (and for filing a Certificate of Service with the Clerk's Office) for every:
 - (1) Conventionally filed document permitted by these rules;
 - (2) Electronic filing that could not be electronically served upon a party or Registered User who appeared in the action; and
 - (3) Document filed under seal.

LR 100.8 Hyperlinks

- (a) Electronically filed documents may contain hyperlinks to other portions of the same document, and/or hyperlinks to a location on the Internet that contains a source document for a citation.
- (b) Hyperlinks to cited authority do not replace standard citation format. Complete citations must be included within the text of the document. Neither a hyperlink, nor any site to which it refers, shall be considered part of the record. Hyperlinks are simply convenient mechanisms for accessing material cited in an electronically filed document.
- (c) The Court neither endorses, nor accepts responsibility for any product, organization, or content at any hyperlinked site, or at any site to which that site may be linked.

LR 100.9 Court Orders and Judgments

Every order or other court-issued document filed electronically without the original signature of a judge or clerk has the same force and effect as if the judge or clerk had signed a paper copy of the order and it had been entered on the docket in a conventional manner. Orders may also be issued as "text only" entries on the docket, without an attached document.

Practice Tip – Mailing Judgments to Registered Users
In accordance with Fed. R. Civ. P. 5(b) and 77(d), on June 1, 2006, the Clerk's Office will discontinue mailing a paper copy of electronically filed judgments to Registered Users who have been successfully served via the CM/ECF system.

LR 100.10 Retention Requirements (See LR 10.4)

- (a) Electronically filed documents such as affidavits or declarations under penalty of perjury which contain original signatures of persons who are not Registered Users must be maintained in their original paper form by the Registered User until the later of:
 - (1) The final disposition of the case, including appeal or expiration of the time for appeal; or,
 - (2) The expiration of any relevant statute of limitations.
- (b) On request of the Court or a party, the Registered User must provide the original document for review.

LR 100.11 Personal Privacy Issues (See *also* LR 3.8 and LR 10.3)
Information posted on the CM/ECF system shall not be downloaded for uses inconsistent with the privacy concerns of any person.

Amendment History to LR 100	
December 1, 2005	
Generally	LR 100 has been revised in its entirety to codify only the core local rule requirements of the CM/ECF system leaving the "how to" instructions to be integrated into the on-line CM/ECF User's Manual at www.ord.uscourts.gov

